

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63754; File No. S7–24–89]

**Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment No. 23 to 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 Submitted by the BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE Amex, Inc., and NYSE Arca, Inc.**

January 21, 2011.

Pursuant to Rule 608 of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> notice is hereby given that on December 15, 2010, the operating committee (“Operating Committee” or “Committee”)<sup>2</sup> of 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 (“Nasdaq/UTP Plan” or “Plan”) filed with the Securities and Exchange Commission (“Commission”) an amendment to the Plan.<sup>3</sup> This amendment represents Amendment No.

<sup>1</sup> 17 CFR 242.608.

<sup>2</sup> The Plan Participants (collectively, “Participants”) are the: BATS Exchange, Inc. (“BATS”); Chicago Board Options Exchange, Incorporated (“CBOE”); Chicago Stock Exchange, Inc. (“CHX”); EDGA Exchange, Inc. (“EDGA”); EDGX Exchange, Inc. (“EDGX”); Financial Industry Regulatory Authority, Inc. (“FINRA”); International Securities Exchange LLC (“ISE”); NASDAQ OMX BX, Inc. (“BX”); NASDAQ OMX PHLX, Inc. (“PHLX”); Nasdaq Stock Market LLC (“Nasdaq”); National Stock Exchange, Inc. (“NSX”); New York Stock Exchange LLC (“NYSE”); NYSE Amex, Inc. (“NYSEAmex”); and NYSE Arca, Inc. (“NYSEArca”).

<sup>3</sup> The Plan governs the collection, processing, and dissemination on a consolidated basis of quotation information and transaction reports in Eligible Securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Eligible Securities. See Securities Exchange Act Release No. 55647 (April 19, 2007) 72 FR 20891 (April 26, 2007).

23 to the Plan and proposes to establish a broker-dealer enterprise maximum (the “Enterprise Maximum”) in respect of fees that the broker-dealer is required to pay for distribution of UTP Level 1 Service to nonprofessional subscribers that are brokerage account customers of the broker/dealer. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

### I. Rule 608(a)

#### A. Purpose of the Amendments

The Participants propose to establish the Enterprise Maximum mentioned above. The proposed Enterprise Maximum would apply in respect of each entitlement system of an entity that is registered as a broker/dealer under the Securities Exchange Act of 1934.

For each entitlement system, it would limit the monthly maximum amount of fees that such a broker/dealer would be required to pay for distribution of UTP Level 1 Service to nonprofessional subscribers that are brokerage account customers of the broker/dealer.

Exhibit 2 to the Plan defines “nonprofessional subscriber” as a natural person who is neither:

(A) registered or qualified in any capacity with the Commission, the Commodities [sic] Futures Trading Commission, any state securities agency, any securities exchange or association or any commodities or futures contract market or association;

(B) engaged as an “investment adviser” as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor

(C) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

For calendar year 2010, the Participants propose to set the monthly Enterprise Maximum at \$600,000 per entitlement system. For each subsequent calendar year, the Enterprise Maximum would increase by the percentage increase in the annual composite share volume for the preceding calendar year, subject to a maximum annual increase of five percent. However, the amendment would allow the Participants to determine to waive the increase for any calendar year.

The Enterprise Maximum would enable broker/dealers with significant numbers of nonprofessional subscribers to limit their costs in respect of their

provision of Plan data to nonprofessional subscribers and would facilitate their ability to budget their market data expenditures.

#### B. Governing or Constituent Documents

Not applicable.

#### C. Implementation of Amendment

The Participants propose to apply the monthly Enterprise Maximum to qualifying broker/dealers commencing with the month of January 2011.

#### D. Development and Implementation Phases

Not applicable.

#### E. Analysis of Impact on Competition

The proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange 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) of the Exchange Act.

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

The Participants have no written understandings or agreements relating to interpretation of the Plan as a result of the amendment.

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

Each of the Plan’s Participants has executed a written amendment to the Plan.

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

Not applicable.

#### I. Terms and Conditions of Access

See Item I(A) above.

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

The Participants believe that the level of the fee allows broker/dealers to contribute an appropriate amount for the market data services that they provide to nonprofessional subscribers. By capping the monthly amount payable in respect of nonprofessional subscribers, the Enterprise Maximum would both reduce the fees otherwise payable by broker/dealers with significant numbers of nonprofessional subscribers and enable those broker/dealers to forecast their market data expenditures more efficiently.

The Participants believe that the proposed Enterprise Maximum is fair and reasonable and provides for an equitable allocation of dues, fees, and other charges among vendors, data recipients and other persons using the Participants' facilities.

*K. Method and Frequency of Processor Evaluation*

Not applicable.

*L. Dispute Resolution*

Not applicable.

**II. Rule 601(a)**

*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.

*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*

Not applicable.

*G. Identification of Marketplace of Execution*

Not Applicable.

**III. Solicitation of Comments**

The Commission seeks general comments on Amendment No. 23. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7-24-89 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 S7-24-89. This file number should be included on the subject line if e-mail 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 Plan amendment that are filed with the Commission, and all written communications relating to the proposed Plan 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 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for website viewing and printing at the Office of the Secretary of the Committee, currently located at the CBOE, 400 S. LaSalle Street, Chicago, IL 60605. 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 S7-24-89 and should be submitted on or before February 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**Elizabeth M. Murphy,**

*Secretary.*

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**SMALL BUSINESS ADMINISTRATION**

**Small Business Information Security Task Force**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of meeting minutes.

**SUMMARY:** The SBA is issuing this notice to publish meeting minutes for the Small Business Information Security Task Force Meeting.

**DATES:** 1 p.m., Wednesday, December 8, 2010.

**ADDRESSES:** The meeting was held via teleconference.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 507(i)(4)(A) of the Credit Card

Accountability Responsibility and Disclosure Act of 2009, SBA submits the meeting minutes for the third meeting of the Small Business Information Security Task Force. Chairman, Rusty Pickens, called the meeting to order on December 8, 2010 at 1 p.m. Roll call was taken and a quorum was established. Mr. Pickens reported on developments since the last meeting, noting first that comments received on the draft work plan had been incorporated to add new subject areas for academics and technology. Also, Mr. Erdle had prepared a one page document describing available technical certifications for small businesses that he provided to Mr. Pickens as a starting point for collating data on security certification and training. Mr. Pickens undertook to provide the document to the group in advance of the next meeting for review and discussion at the meeting. Subsequently, Mr. Pickens reported on his telephone conversation with Mr. Bob Russo of the PCI Security Standards Council (PCI SSC) to explore the possibility of having Mr. Russo brief the Task Force on the Council's work, and of having the PCI SSC conduct a webinar for the Task Force in the Spring of 2011 on credit card security issues for small businesses. The group then engaged in an open discussion regarding the collection and organization of the data to be included in the Task Force report. Additional subject areas were proposed for potential inclusion, such as government contracting security requirements, protection of customer privacy, and security certification and training applicable to both small business employees and contractors.

Ms. Marx noted that as the Task Force objective originated from the Credit Card Act, a useful starting point for reviewing information available to assist small merchants would be the Payment Card Industry Security Standards, which lay out the requirements for protecting credit card data. The group endorsed Mr. Pickens' proposal for a PCI Standards briefing and webinar; in addition, Ms. Marx offered to provide the group with a link to the PCI SSC's recently launched small business website dedicated to online credit card security.

Before concluding the meeting, the group discussed next steps in organizing the work plan. Mr. Pickens asked for volunteers to adopt each of the broad subject matter categories already identified by the group and to flesh them out with more detail for review at the next meeting. Members duly volunteered for certain identified subject areas and Mr. Pickens agreed to suggest other members to accept

<sup>4</sup> 17 CFR 200.30-3(a)(27).