SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Schedule of Fees September 17, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), 1 and Rule 19b–4 thereunder, 2 notice is hereby given that on September 3, 2013, the Topaz Exchange, LLC (the “Exchange” or “Topaz”) 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 the Substance of the Proposed Rule Change

Topaz is proposing to amend its Schedule of Fees to adopt volume-based tiered rebates for adding liquidity on the Exchange (“Maker Rebate”), and to increase the rebate for certain participant types in Non-Penny Symbols. The text of the proposed rule change is available on the Exchange’s Web site, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in Item V below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Topaz is proposing to amend its Schedule of Fees to establish volume-based rebates for adding liquidity in Regular Orders 3 traded on the Exchange. The Exchange believes the proposed rebates will incentivize firms that route orders to Topaz to increase order flow to the Exchange. The Exchange is also proposing to increase the rebates applicable to Non-Topaz Market Maker, 4 Firm Proprietary/ Broker-Dealer, 5 and Professional Customer 6 orders in Non-Penny Symbols. 7

For Regular Orders in Penny Symbols 8 and SPY the Exchange currently pays a Maker Rebate in Standard Options of $0.48 per contract for Priority Customer orders, 9 $0.37 per contract ($0.39 per contract in SPY) for Market Maker orders, 10 and $0.25 per contract for Non-Topaz Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer orders. For Regular Orders in Non-Penny Symbols, the Exchange currently pays a Maker Rebate in Standard Options of $0.82 per contracts for Priority Customer orders, $0.40 per contract for Market Maker orders, and $0.10 per contract for Non-Topaz Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer orders. For Regular Orders in Mini Options, 11 Maker Rebates are 1/10th the rate applicable in Standard Options.

The Exchange proposes to amend the rebates described above so that Maker Rebates will be based on a Member’s average daily volume (“ADV”) in a given month. 12 In particular, the Exchange proposes to pay a Maker Rebate based on four volume tier levels as described in the table below. Members may qualify for each tier based on their volume in the following categories: (i) Total Affiliated Member ADV, 13 (ii) Priority Customer Maker ADV, 14 or (iii) Total Affiliated Member ADV with a Minimum Priority Customer Maker ADV. For example, a Member can reach Tier 2 by sending 65,000 contracts in Total Affiliated Member ADV, 20,000 contracts in Priority Customer Maker ADV, or 40,000 contracts in Regular Orders 3.

1 A Firm Proprietary order is an order submitted by a Member for its own proprietary account. A Broker-Dealer order is an order submitted by a Member for a non-Member broker-dealer account.
2 A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.
3 Non-Penny Symbols are options overlying all symbols excluding Penny Symbols.
4 Penny Symbols are options overlying all symbols listed on Topaz that are in the Penny Pilot Program.
5 A Priority Customer is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).
6 The term Market Maker refers to “Competitive Market Makers” and “Primary Market Makers” collectively. Market Maker orders sent to the Exchange by an Electronic Access Member are assessed fees and rebates at the same level as Market Maker orders. See footnote 2, Schedule of Fees, Section I and II.
7 A Regular Order is an order that consists of only a single option series and is not submitted with a stock leg.
8 A Non-Topaz Market Maker, or Far Away Market Maker (“FarMM”), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.
9 A Priority Customer is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).
10 The term Market Maker refers to “Competitive Market Makers” and “Primary Market Makers” collectively. Market Maker orders sent to the Exchange by an Electronic Access Member are assessed fees and rebates at the same level as Market Maker orders. See footnote 2, Schedule of Fees, Section I and II.
11 Mini Options are options overlying ten (10) shares of AAPL, AMZN, GLD, GOOG and SPY.
12 ADV includes all volume in all symbols and order types.
13 The Total Affiliated Member ADV category includes all volume in all symbols and order types.
contracts in Total Affiliated Member ADV of which 15,000 contracts is Priority Customer Maker volume. Maker Rebates will be paid based on the highest tier that a Member reaches in a given month, and this tiered rate will apply retroactively to all eligible traded contracts for all client categories. This means, for example, a Member with an ADV of 115,000 Priority

Volume in Standard Options and Mini Options will be combined to calculate the tier a Member has reached. For example, a Member can reach Tier 2 under Total Affiliated Member ADV by sending an ADV of 50,000 contracts in Standard Options and 15,000 contracts in Mini Options. Based on the tier achieved, the Member will be rebated for that tier for all the Standard Options traded at the Standard Option rebate amount, and for all the Mini Options traded at the Mini Option rebate amount. In addition, all eligible Tier Total affiliated member ADV Priority customer maker ADV Total affiliated member ADV/minimum priority customer maker ADV

<table>
<thead>
<tr>
<th>Tier</th>
<th>Tier Priority customer</th>
<th>Tier Topaz market maker</th>
<th>Tier Firm proprietary, B/D, FarMM &amp; professional customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1</td>
<td>(0.25)</td>
<td>(0.30)</td>
<td>(0.25)</td>
</tr>
<tr>
<td>Tier 2</td>
<td>(0.40)</td>
<td>(0.32)</td>
<td>(0.25)</td>
</tr>
<tr>
<td>Tier 3</td>
<td>(0.45)</td>
<td>(0.34)</td>
<td>(0.25)</td>
</tr>
<tr>
<td>Tier 4</td>
<td>(0.48)</td>
<td>(0.37)</td>
<td>(0.25)</td>
</tr>
<tr>
<td>Tier 4 SPY</td>
<td>(0.48)</td>
<td>(0.39)</td>
<td>(0.25)</td>
</tr>
</tbody>
</table>

Non-Penny Symbols Maker Rebates (per contract)

<table>
<thead>
<tr>
<th>Tier</th>
<th>Priority customer</th>
<th>Topaz market maker</th>
<th>Firm proprietary, B/D, FarMM &amp; professional customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1</td>
<td>(0.70)</td>
<td>(0.40)</td>
<td>(0.25)</td>
</tr>
<tr>
<td>Tier 2</td>
<td>(0.75)</td>
<td>(0.42)</td>
<td>(0.25)</td>
</tr>
<tr>
<td>Tier 3</td>
<td>(0.80)</td>
<td>(0.44)</td>
<td>(0.25)</td>
</tr>
<tr>
<td>Tier 4</td>
<td>(0.82)</td>
<td>(0.46)</td>
<td>(0.25)</td>
</tr>
</tbody>
</table>

II. Regular Order Rebates for Adding Liquidity in Mini Options

Penny Symbols and SPY Maker Rebates (per contract)

<table>
<thead>
<tr>
<th>Tier</th>
<th>Priority customer</th>
<th>Topaz market maker</th>
<th>Firm proprietary, B/D, FarMM &amp; professional customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1</td>
<td>($0.025)</td>
<td>($0.030)</td>
<td>($0.025)</td>
</tr>
<tr>
<td>Tier 2</td>
<td>(0.040)</td>
<td>(0.032)</td>
<td>(0.025)</td>
</tr>
<tr>
<td>Tier 3</td>
<td>(0.045)</td>
<td>(0.034)</td>
<td>(0.025)</td>
</tr>
<tr>
<td>Tier 4</td>
<td>(0.048)</td>
<td>(0.037)</td>
<td>(0.025)</td>
</tr>
<tr>
<td>Tier 4 SPY</td>
<td>(0.048)</td>
<td>(0.039)</td>
<td>(0.025)</td>
</tr>
</tbody>
</table>

Non-Penny Symbols Maker Rebates (per contract)

<table>
<thead>
<tr>
<th>Tier</th>
<th>Priority customer</th>
<th>Topaz market maker</th>
<th>Firm proprietary, B/D, FarMM &amp; professional customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1</td>
<td>(0.070)</td>
<td>(0.040)</td>
<td>(0.025)</td>
</tr>
<tr>
<td>Tier 2</td>
<td>(0.075)</td>
<td>(0.042)</td>
<td>(0.025)</td>
</tr>
<tr>
<td>Tier 3</td>
<td>(0.080)</td>
<td>(0.044)</td>
<td>(0.025)</td>
</tr>
<tr>
<td>Tier 4</td>
<td>(0.082)</td>
<td>(0.046)</td>
<td>(0.025)</td>
</tr>
</tbody>
</table>

14 Each Member would be responsible for notifying the Exchange of its affiliations so that volume of the Member and its affiliates may be aggregated.
By way of example, under the new tiered rebate structure a Member that executed an ADV of 20,000 Priority Customer contracts in all classes listed on the Exchange that added liquidity in a given month would be entitled to receive the proposed Tier 2 Maker Rebate of $0.40 per contract for Standard Options and $0.040 per contract for Mini Options in Penny Symbols. If the Member executed an ADV of 65,000 Priority Customer contracts that added liquidity in the same month, the Exchange would instead pay the proposed Tier 3 Maker Rebate of $0.45 per contract for Standard Options and $0.045 per contract for Mini Options in Penny Symbols. The applicable tier reached will similarly affect the maker rebates paid on non-Priority Customer maker volume as reflected in the tables.

The Exchange notes that the Maker Rebates currently being paid on Topaz are equivalent to Tier 4 rebates under the new structure, with a few exceptions. During the initial rollout of symbols on Topaz, the Exchange could not adopt the proposed tiered structure due to the impossibility of calculating appropriate ADV thresholds for each tier when symbols were being listed on the Exchange each week. The Exchange, therefore, decided to provide a higher introductory rate for Maker Rebates in order to attract orders to the Exchange during the initial rollout phase. By adopting the proposed tiered structure now, the Exchange seeks to incentivize Members to send additional order flow to the Exchange in order to qualify for the higher Maker Rebates.

At this time the Exchange is not modifying the Maker Rebates applicable to Non-Topaz Market Maker, Firm Proprietary/Broker-Dealer, or Professional Customer orders in Penny Symbols and SPY. Although the Exchange is adopting a tiered structure for these orders, the amount of the applicable Maker Rebate remains unchanged from current levels of $0.25 per contract for Standard Options and $0.025 per contract for Mini Options, regardless of the tier achieved. In order to increase order flow from these market participants in Non-Penny symbols, the Exchange is increasing the Maker Rebate for these market participants so that the rebate is now equivalent to the rebate offered in Penny Symbols and SPY. As such, Non-Topaz Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer orders in Non-Penny Symbols will be provided an increased Maker Rebate of $0.25 per contract for Standard Options and $0.025 per contract for Mini Options, up from $0.10 per contract and $0.010 per contract, respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,15 in general, and Section 6(b)(4) of the Act,16 in particular, that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes the proposed rebates are reasonable and equitably allocated because Topaz has already established Maker Rebates for Members that provide liquidity on the Exchange, and is merely proposing to adopt volume-based tiers designed to incentivize Members to send additional order flow to the Exchange. The Exchange believes that the proposed Maker Rebates are not unfairly discriminatory because the rebate structure is competitive with tiered rebate structures that exist today at other options exchanges such as the NASDAQ Options Market (“NOM”).

For example, NOM provides its members with a rebate for adding liquidity in Penny Symbols that ranges between $0.25 per contract and $0.48 per contract for customer and professional orders, and between $0.25 per contract and $0.32 per contract for Market Maker orders. As proposed, Topaz will also offer Priority Customers the same range of rebates as currently provided by NOM, and will actually offer more competitive rebates for Market Makers, from $0.30 per contract for the base tier and as high as $0.37 per contract for the highest tier. Topaz also compares competitively with respect to the thresholds required to achieve higher levels of rebates. For example, a Member executing an ADV of 275,000 contracts on Topaz would qualify for the highest $0.48 rebate for Priority Customer orders, whereas the same firm would have to execute an extra 50,000 contracts in ADV to qualify for that level of rebate on NOM. Topaz also does not separate out thresholds for different participant types, meaning that a Member that qualifies for a higher tier in Priority Customer volume would also earn the higher rebate amount for any Market Maker volume it trades on the Exchange that provides liquidity.

While the Exchange is lowering the current Maker Rebate provided to Members that have not achieved the highest volume tier, the Exchange believes that Members will in fact be incentivized to bring additional order flow to the Exchange to obtain higher rebates. Additionally, the Exchange believes that the proposed Maker Rebates are fair, equitable and not unfairly discriminatory because they are consistent with rebate differentiation that exists today at other option exchanges.

With respect to rebates for Market Makers, the Exchange believes that the price differentiation between the various market participants is appropriate and not unfairly discriminatory because Market Makers have different requirements and obligations to the Exchange that other market participants do not (such as quoting requirements). The Exchange believes that it is equitable and not unfairly discriminatory to provide a lower rebate to market participants that do not have such requirements and obligations that Exchange Market Makers do.

The Exchange also believes that providing higher rebates to Priority Customer orders, and creating ADV thresholds specifically for Members that send such orders to Topaz, attracts that order flow to the Exchange and thereby creates liquidity to the benefit of all market participants who trade on the Exchange. Further, the Exchange believes that it is equitable and not unfairly discriminatory to provide higher rebates to Priority Customer orders than to Professional Customer orders. A Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. Further, Professional Customers engage in trading activity similar to that conducted by market makers and proprietary traders. For example, Professional Customers join bids and offers on the Exchange and thus compete for incoming order flow.

The Exchange has decided to charge fees and provide rebates for Regular Orders in Mini Options at a rate of $0.025 per contract for Mini Options, up...
that is 1/10th the rate of fees and rebates
the Exchange currently provides for
trading in Standard Options. The
Exchange believes it is reasonable and
equitable and not unfairly
discriminatory to assess lower fees and
rebates to provide market participants
an incentive to trade Mini Options on
the Exchange. The Exchange believes the
proposed rebates are reasonable and
equitable in light of the fact that Mini
Options have a smaller exercise and
assignment value, specifically 1/10th
that of a standard option contract, and,
as such, is providing rebates that are
1/10th of those applicable to Standard
Options.

The Exchange notes that the proposed
rule filing is intended to establish Topaz
as an attractive venue for market
participants to direct their order flow as
the proposed rebates are competitive
with those established by other
exchanges. The Exchange operates in a
highly competitive market in which market participants can readily direct
order flow to another exchange if they
deem rebates at a particular exchange to
be too low. For the reasons noted above,
the Exchange believes that the proposed
rebates are fair, equitable and not
unfairly discriminatory.

B. Self-Regulatory Organization’s
Statement on Burden on Competition

In accordance with Section 6(b)(8) of
the Act,19 the Exchange does not believe
that the proposed rule change will
impose any burden on inter-market
competition that is not necessary or
appropriate in furtherance of the
purposes of the Act. The tiered rebate
structure that the Exchange proposes to
adopt here is similar to that currently in
effect on other maker/taker options
exchanges such as NOM,20 and will
increase competition between Topaz and
other markets.

In establishing tiered rebates for
providing liquidity, the Exchange is not
imposing any burden on intra-market
competition. The established volume
tiers are transparent and offer Members
a variety of ways to reach different
levels of rebates on the exchange,
similar to levels and differentials these
same participants are familiar with on
several other exchanges. Volume tiers are
not new to the options industry and
generally reward Members for
submitting additional volume to the
Exchange, with Topaz now seeking to
introduce a similar structure.

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

The Exchange has not solicited, and
does not intend to solicit, comments on
this proposed rule change. The
Exchange has not received any
unsolicited written comments from
members or other interested parties.

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

The foregoing rule change has become
effective pursuant to Section 19(b)(3)(A)(i)(ii)
of the Act21 and subparagraph (f)(2) of Rule 19b–4
thereunder,22 because it establishes a
due, fee, or other charge imposed by
Topaz.

At any time within 60 days of the
filing of such proposed rule change, the
Commission summarily may
temporarily suspend such rule change if
it appears to the Commission that such
action is necessary or appropriate in the
public interest, for the protection of
investors, or otherwise in furtherance of
the purposes of the Act. If the
Commission takes such action, the
Commission shall institute proceedings
to determine whether the proposed rule
should be approved or 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.
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–Topaz–2013–04 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

The Commission will post all
comments on the Commission’s Internet
Web site (http://www.sec.gov/rules/
sro.shtml). 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 Web site 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 such
filing also will be available for
inspection and copying at the principal
offices of the Exchange. 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 SR–Topaz–
2013–04, and should be submitted on or
before October 15, 2013.

For the Commission, by the Division of
Trading and Markets, pursuant to delegated
authority.23

Kevin M. O’Neill,
Deputy Secretary.

[FR Doc. 2013–23007 Filed 9–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE
COMMISSION

[Release No. 34–70428; File No. SR–CTA–
2013–05]

Consolidated Tape Association; Notice
of Filing of the Eighteenth Substantive
Amendment to the Second
Restatement of the CTA Plan

September 17, 2013.

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 9, 2013, the Consolidated
Tape Association (“CTA”) Plan
participants (“Participants”)3 filed with

23 17 CFR 242.608.
24 Each participant executed the proposed
amendment. The Participants are: BATS Exchange,
Inc., BATS–Y Exchange, Inc., Chicago Board
Options Exchange, Incorporated, Chicago Stock
Exchange, Inc., EDGA Exchange, Inc. (“EDGA”),
EDGX Exchange, Inc., (“EDGX”), Financial Industry
Regulatory Authority, Inc. (“FINRA”), International