

CTA and CQ Plans," and the contracts need not be amended to cause them to govern the receipt and use of the Exchange's data.<sup>343</sup> The Exchange maintains that because "the terms and conditions of the CTA/CQ contracts *do not* change in any way with the addition of the Exchange's market data \* \* \* there are no changes for the industry or Commission to review."<sup>344</sup>

The Commission believes that the Exchange may use the CTA/CQ Vendor and Subscriber Agreements to govern the distribution of NYSE Arca Data.<sup>345</sup> It notes that the NYSE used the CTA Vendor Agreement to govern the distribution of its OpenBook and Liquidity Quote market data products.<sup>346</sup> Moreover, the Exchange represents that, following consultations with vendors and end-users, and in response to client demand:

[The Exchange] chose to fold itself into an existing contract and administration system rather than to burden clients with another set of market data agreements and another market data reporting system, both of which would require clients to commit additional legal and technical resources to support the Exchange's data products.<sup>347</sup>

In addition, the Exchange has represented that it is "not imposing restrictions on the use or display of its data beyond those set forth" in the existing CTA/CQ Vendor and Subscriber Agreements.<sup>348</sup> The Commission

therefore does not believe that the Exchange is amending or adding to such agreements.

A commenter also stated that the Exchange has not recognized the rights of a broker or dealer, established in Regulation NMS, to distribute its order information, subject to the condition that it does so on terms that are fair and reasonable and not unreasonably discriminatory.<sup>349</sup> In response, the Exchange states that the CTA/CQ Vendor and Subscriber Agreements do not prohibit a broker-dealer member of an SRO participant in a Plan from making available to the public information relating to the orders and transaction reports that it provides to the SRO participant.<sup>350</sup> Accordingly, the Commission believes that the Exchange has acknowledged the rights of a broker or dealer to distribute its market information, subject to the requirements of Rule 603(a) of Regulation NMS.

A commenter also stated that the Exchange has failed to consider the administrative burdens that the proposal would impose, including the need for broker-dealers to develop system controls to track ArcaBook access and usage.<sup>351</sup> In response, the Exchange represents that it has communicated with its customers to ensure system readiness and is using "a long-standing, well-known, broadly-used administrative system" to minimize the amount of development effort required to meet the administrative requirements associated with the proposal.<sup>352</sup> Accordingly, the Commission believes that NYSE Arca has reasonably addressed the administrative requirements associated with the Proposal.

## VII. Conclusion

It is therefore ordered that the earlier action taken by delegated authority, Securities Exchange Act Release No. 54597 (October 12, 2006) 71 FR 62029 (October 20, 2006), is set aside and, pursuant to section 19(b)(2) of the Exchange Act, the Proposal (SR-NYSEArca-2006-21) is approved.

By the Commission.

**Florence E. Harmon,**

*Acting Secretary.*

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BILLING CODE 8011-01-P

<sup>349</sup> SIFMA I at 7.

<sup>350</sup> NYSE Arca Response I at 4.

<sup>351</sup> SIFMA I at 8.

<sup>352</sup> NYSE Arca Response I at 4-5.

## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11514 and #11557]

**Arkansas Disaster Number AR-00026**

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

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Arkansas (FEMA-1804-DR), dated 10/22/2008.

*Incident:* Tropical Storm Ike.

*Incident Period:* 09/13/2008 through 09/23/2008.

**DATES:** *Effective Date:* 11/28/2008.

*Physical Loan Application Deadline Date:* 12/22/2008.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/22/2009.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Arkansas, dated 10/22/2008, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Clark, Montgomery, Nevada, Pike.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

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## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11541 and #11542]

**California Disaster Number CA-00132**

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

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of California (FEMA-1810-DR), dated 11/18/2008.

*Incident:* Wildfires.

*Incident Period:* 11/13/2008 and continuing through 11/28/2008.

<sup>343</sup> NYSE Arca Response I at 3.

<sup>344</sup> NYSE Arca Response I at 3 (emphasis in original).

<sup>345</sup> The Commission is not approving the CTA/CQ Vendor and Subscriber Agreements, which the CTA and CQ Plan Participants filed with the Commission as amendments to the CTA and CQ Plans that were effective on filing with the Commission pursuant to Rule 608(b)(3)(iii) of Regulation NMS (previously designated as Exchange Act Rule 11Aa3-2(c)(3)(iii)). See, e.g., Securities Exchange Act Release No. 28407 (September 6, 1990), 55 FR 37276 (September 10, 1990) (File No. 4-2811) (notice of filing and immediate effectiveness of amendments to the CTA Plan and the CQ Plan). Rule 608(b)(3)(iii) of Regulation NMS (previously designated as Exchange Act Rule 11Aa3-2(c)(3)(iii)) allows a proposed amendment to a national market system plan to be put into effect upon filing with the Commission if the plan sponsors designate the proposed amendment as involving solely technical or ministerial matters.

<sup>346</sup> Securities Exchange Act Release Nos. 53585 (March 31, 2006), 71 FR 17934 (April 7, 2006) (order approving File Nos. SR-NYSE-2004-43 and NYSE-2005-32) (relating to OpenBook); and 51438 (March 28, 2005), 70 FR 17137 (April 4, 2005) (order approving File No. SR-NYSE-2004-32) (relating to Liquidity Quote). For the both the OpenBook and Liquidity Quote products, the NYSE attached to the CTA Vendor Agreement an Exhibit C containing additional terms governing the distribution of those products, which the Commission specifically approved. NYSE Arca is not including additional contract terms in the Proposal.

<sup>347</sup> NYSE Arca Response I at 4.

<sup>348</sup> NYSE Arca Response I at 3.