

would also adversely affect over 1,500 employees that are involved in such services.

7. None of the Applicants have previously received an order under section 9(c) of the Act.

#### Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

#### Temporary Order

The Commission has considered the matter and finds that the Applicants have made the necessary showing to justify granting a temporary exemption. Accordingly,

*It is hereby ordered*, pursuant to section 9(c) of the Act, that Applicants and any other Covered Persons are granted a temporary exemption from the provisions of section 9(a), solely with respect to the Injunction, subject to the condition in the application, from March 11, 2009, until the Commission takes final action on their application for a permanent order.

By the Commission.

**Elizabeth M. Murphy**,  
*Secretary*.

[FR Doc. E9-5785 Filed 3-17-09; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 19, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has

certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), 9(B) and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Walter, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, March 19, 2009 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

March 12, 2009.

**Elizabeth M. Murphy**,  
*Secretary*.

[FR Doc. E9-5791 Filed 3-17-09; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, April 8, 2009 at 10 a.m., in the Auditorium, Room L-002.

*The subject matter of the Open Meeting will be:*

The Commission will consider whether to propose short sale price test rules.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: March 13, 2009.

**Florence E. Harmon**,  
*Deputy Secretary*.

[FR Doc. E9-5932 Filed 3-16-09; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59552; File No. SR-CTA/CQ-2008-05]

### Consolidated Tape Association; Order Approving the Thirteenth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Ninth Substantive Amendment to the Restated Consolidated Quotation Plan

March 10, 2009.

#### I. Introduction

On December 15, 2008, the Consolidated Tape Association ("CTA") Plan and Consolidated Quotation ("CQ") Plan participants ("Participants")<sup>1</sup> filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 608<sup>2</sup> under the Securities Exchange Act of 1934 ("Act")<sup>3</sup> a proposal to amend the CTA and CQ Plans (collectively, the "Plans")<sup>4</sup> to provide that the Participants will pay the Network A Administrator a fixed annual fee ("Annual Fixed Payment") in exchange for its performance of Network A administrator functions under the Plans. The proposed Amendments were published for comment in the **Federal Register** on January 21, 2008.<sup>5</sup> No comment letters were received in response to the Notice. This order approves the Amendments.

<sup>1</sup> Each Participant executed the proposed amendment. The Participants are the American Stock Exchange LLC (n/k/a NYSE Alternext U.S. LLC); Boston Stock Exchange, Inc. (n/k/a NASDAQ OMX BX, Inc.); Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; International Securities Exchange, LLC; The NASDAQ Stock Market LLC ("Nasdaq"); National Stock Exchange, Inc.; New York Stock Exchange LLC ("NYSE"); NYSE Arca, Inc.; and Philadelphia Stock Exchange, Inc. (n/k/a NASDAQ OMX PHLX, Inc.).

<sup>2</sup> 17 CFR 240.608.

<sup>3</sup> 15 U.S.C. 78k-1.

<sup>4</sup> See Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (order approving CTA Plan); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (order temporarily approving CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (order permanently approving CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a "transaction reporting plan" under Rule 601 under the Act, 17 CFR 242.601, and a "national market system plan" under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is a "national market system plan" under Rule 608 under the Act, 17 CFR 242.608.

<sup>5</sup> See Securities Exchange Act Release No. 59230 (January 12, 2008), 74 FR 3659 ("Notice").

## II. Description of the Proposal

Section XII ("Financial Matters") of the CTA Plan and Section IX ("Financial Matters") of the CQ Plan each provide that a network's Operating Expenses are to be deducted from the network's Gross Income before determining the amounts that the network's administrator will distribute to the Participants. Both Section XII(c)(i) ("Determination of Operating Expenses") of the CTA Plan and Section IX(c)(i) ("Determination of Operating Expenses") of the CQ Plan currently provide that a network's Operating Expenses include all costs and expenses that the network's administrator incurs in "collecting, processing and making available Network A market data." The Network A Administrator stated that accounting for operating costs, especially the allocation of organization overhead costs to the Network A Administrator function, is administratively burdensome. And as a result, the Network A Participants have proposed to replace their payment to the Network A Administrator of Operating Expenses with an Annual Fixed Payment. In the case of NYSE as the CTA and CQ Network A Administrator, the Participants proposed that "Operating Expenses" for any calendar year equal: (1) The Annual Fixed Payment for that year; plus (2) "Extraordinary Expenses." Extraordinary Expenses would include that portion of legal and audit expenses and marketing and consulting fees that are outside of the ordinary and customary functions that a network administrator performs.<sup>6</sup>

For calendar year 2008, the Network A Participants voted to set the Annual Fixed Payment at \$6,000,000 to compensate the Network A Administrator for its Network A administrative services during 2008 under both the CTA and CQ Plans. For each subsequent calendar year the Annual Fixed Payment shall increase (but not decrease) by the percentage increase (if any) in the annual cost-of-living adjustment ("COLA") that the U.S. Social Security Administration applies to the Supplemental Security Income for the calendar year preceding that subsequent year, subject to a

<sup>6</sup> The Commission notes that the Transmittal Letter accompanying the proposed Amendments included language not voted on by the Participants and thus not included in the proposed Amendments: "Network A Administrator will not incur any extraordinary expense on behalf of the Network A Participants unless the Network A Participants determine by majority vote to approve the incurrence of that extraordinary expense." This language is not part of the proposed Amendments that the Commission is approving today.

maximum annual increase of five percent.<sup>7</sup>

### Discussion

After careful review, the Commission finds that the Amendments to the Plans are consistent with the requirements of the Act and the rules and regulations thereunder,<sup>8</sup> and, in particular, Section 11A(a)(1) of the Act<sup>9</sup> and Rule 608 thereunder<sup>10</sup> in that they are necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system. The Commission believes that permitting the Network A Administrator to assess a flat fee should increase the efficiency of the administration of the Plans.<sup>11</sup> Additionally, the Commission notes that every two years the Network A Administrator is required to provide a report detailing any significant changes to the administrative expenses during the preceding two years to enable the Participants to review and determine by majority vote whether to continue the Annual Fixed Payment at its then current level.

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 11A of the Act,<sup>12</sup> and Rule 608 thereunder,<sup>13</sup> that the proposed amendments to the CTA and CQ Plans (SR-CTA/CQ-2008-05) are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-5767 Filed 3-17-09; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>7</sup> See Notice, *supra* note 5 at 3660 for a more detailed description of how the fee will be assessed

<sup>8</sup> The Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>10</sup> 17 CFR 240.608.

<sup>11</sup> The Commission notes that Nasdaq similarly receives a fixed fee for its performance of administrative functions under 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 Unlisted Trading Privileges Basis."

<sup>12</sup> 15 U.S.C. 78k-1.

<sup>13</sup> 17 CFR 240.608.

<sup>14</sup> 17 CFR 200.30-3(a)(27).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59567; File No. SR-ISE-2009-12]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

March 12, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 6, 2009, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "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 Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on 2 Premium Products.<sup>3</sup> The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), 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 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 sections A, B and C below, of the most significant aspects of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Premium Products is defined in the Schedule of Fees as the products enumerated therein.