

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91190A; File No. S7-24-89)

February 23, 2021

Joint Industry Plan; Notice of Filing of the Fiftieth Amendment 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

Pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² notice is hereby given that on February 11, 2021,³ the Participants⁴ in 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 (“UTP Plan” or “Plan”) filed with the Securities and Exchange Commission (“Commission”) a proposal to amend the UTP Plan.⁵ The amendment represents the Fiftieth Amendment to the Plan (“Amendment”). Under the Amendment, the Participants propose revisions to the provisions of the Plan governing regulatory and operational halts.⁶

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ See Letter from Robert Books, Chair, UTP Operating Committee, to Vanessa Countryman, Secretary, Commission (Feb. 11, 2021).

⁴ The Participants are: Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., The Investors’ Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX, Inc., The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the “Participants”).

⁵ The Amendment was posted to the Plan website on February 12, 2021. See E-mail from James P. Dombach, Counsel to the Plan, to Michael E. Coe, Assistant Director, Commission, et al. (Feb. 12, 2021).

⁶ The Participants previously, on December 5, 2016, filed an amendment to the provisions of the Plan governing regulatory and operation halts. This amendment was not acted upon

The proposed Amendment has been filed by the Participants pursuant to Rule 608(b)(2) under Regulation NMS.⁷ The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment. Set forth in Sections I and II is the statement of the purpose and summary of the Amendment, along with the information required by Rules 608(a) and 601(a) under the Act, prepared and submitted by the Participants to the Commission.

I. Rule 608(a)

A. Purpose of the Amendment

The purpose of the Amendment is to incorporate into the UTP Plan the same processes for Regulatory Halts that are proposed by the equity exchanges. Consistent with the proposals from the equity exchanges, the Primary Listing Market may declare a Regulatory Halt⁸ in trading for any security for which it is the Primary Listing Market.⁹ The Participants believe that it is appropriate for the Primary Listing Market to declare a Regulatory Halt in order to vest the authority to declare a Regulatory Halt in a single entity, and with respect to any given security, the Primary Listing Market is best positioned to determine when to initiate and end a Regulatory Halt.

by the Commission and was withdrawn by the Participants. See Letter from Robert Books, UTP Chair, to Vanessa Countryman, Secretary, Commission (Nov. 17, 2020).

⁷ 17 CFR 242.608(b)(2).

⁸ Regulatory Halt is defined in Section X.A.10 as “a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up Limit Down, a halt based on Extraordinary Market Activity, a trading halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.”

⁹ The “Primary Listing Market” is defined in Section X.A.8 as “the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.”

The Primary Listing Market may declare a Regulatory Halt as provided for in the rules of the Primary Listing Market, if it determines that there is a SIP Outage,¹⁰ Material SIP Latency,¹¹ Extraordinary Market Activity,¹² or in the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market.¹³ In making such

¹⁰ SIP Outage is defined in Section X.A.13 as “a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future.”

¹¹ Material SIP Latency is defined in Section X.A.5 as “a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the high speed line or over the “high speed line” under the CQ Plan, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future.”

¹² Extraordinary Market Activity is defined in Section X.A.1 as “a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.” In the originally proposed amendment in 2016, Extraordinary Market Activity was defined to include disruptions or malfunctions on a market. After discussions with SEC Staff, the Participants revised this provision to solely limit the definition to disruptions or malfunctions that occur on a market-wide basis.

¹³ See Section X.C. In the originally proposed amendment in 2016, the Primary Listing Market could have declared a Regulatory Halt “when otherwise necessary to maintain a fair and orderly market or in the public interest.” After discussions with SEC Staff, the Participants revised this provision as part of the current Amendment in order to provide greater detail as to when a Regulatory Halt may be declared. The definitions of SIP Outage, Material SIP Latency, and Extraordinary Market Activity appear in Section X.A.

determination, the Primary Listing Market will consider the totality of information available concerning the severity of the disruption, its likely duration, and potential impact on Member Firms and other market participants, and will make a good-faith determination that the criteria to declare a Regulatory Halt have been satisfied and that a Regulatory Halt is appropriate. The Primary Listing Market will consult, if feasible before declaring a Regulatory Halt, with the affected Trading Center(s), other Participants, or the Processor, as applicable, regarding the scope of the issue and what steps are being taken to address the issue.

Should the Primary Listing Market declare a Regulatory Halt, the Primary Listing Market will determine the SIP Halt Resume Time.¹⁴ The Primary Listing Market will declare a resumption of trading when it makes a good-faith determination and considers the totality of information to determine that trading may resume in a fair and orderly manner in accordance with its rules. The Primary Listing Market retains discretion to delay the SIP Halt Resume Time if it believes trading will not resume in a fair and orderly manner. The Primary Listing Market has the responsibility to notify all other Participants of the initiation of the halt as well as the lifting of the halt. The notification process will be mutually agreed to by the Operating Committee and the Primary Listing Market.¹⁵

During Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time as specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, a Participant may resume trading in that security. Outside of Regular Trading Hours, a Participant may resume trading immediately after the SIP Halt Resume Time.

¹⁴ SIP Halt Resume Time is defined in Section X.A.12 as “the time that the Primary Listing Market determines as the end of a SIP Halt.”

¹⁵ See Section X.H.

The amendment provides that the Processor shall disseminate to the Participants notice of the Regulatory Halt as well as notice of the lifting of a Regulatory Halt through any means the Processor considers appropriate.¹⁶

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

All of the Participants have manifested their approval of the proposed amendment by means of their execution of the UTP Plan Amendment. The Participants also solicited the Advisory Committee for its thoughts and any comments on the amendment. The UTP Plan Amendment would become operational upon approval by the Commission.

D. Development and Implementation Phases

The amendment proposed herein would be implemented to coincide with amendments filed by the equity exchanges and approved by the Commission.

E. Analysis of Impact on Competition

The amendment proposed herein does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the amendment simply incorporates into the UTP Plan the processes for Regulatory Halts that will be proposed by the equity exchanges. The Participants do not believe that the proposed amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.

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

Not applicable.

¹⁶ See id.

G. Approval by Sponsors in Accordance with Plan

Section IV(C)(1)(a) of the UTP Plan requires the Participants to unanimously approve the amendment proposed herein. They so approved it.

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

Not applicable.

I. Terms and Conditions of Access

Not applicable.

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

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Regulation NMS Rule 601(a) (solely in its application to the Amendment to the UTP Plan)

A. Equity Securities for which Transaction Reports Shall be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks comments on the Amendment. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendment is consistent with the Act and the rules and regulations thereunder applicable to national market system plans. 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. Please include File Number S7-24-89 on the subject line.

Paper comments:

- Send paper comments in triplicate to 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 Amendment that are filed with the Commission, and all written communications relating to the proposed 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00p.m. Copies of the filing also will be available for website viewing and printing at the principal office of the Plan. 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 [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

J. Matthew DeLesDernier
Assistant Secretary

¹⁷ 17 CFR 200.30-3(a)(85).