



September 6, 2019

Vanessa Countryman  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: Forty-Fifth Amendment to the UTP Plan

Dear Ms. Countryman:

Enclosed please find the above-captioned amendment to the Nasdaq Unlisted Trading Privileges Plan (the “UTP Plan” or “Plan”) as approved and executed by the Plan Participants, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors’ Exchange 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., and NYSE National, Inc. (collectively, the “Participants”).

The Participants propose to amend the Plan to resolve certain ambiguities within the Plan language regarding reporting of last sale price reports in an Eligible Security<sup>1</sup> by the Processor during a Regulatory Halt.<sup>2</sup>

A. Rule 608(a)

1. Purpose of the Amendment

Section X of the Plan currently includes inconsistent language with respect to the Processor’s ability to disseminate last sale price reports in an Eligible Security during a Regulatory Halt. Section X.A prohibits the Processor from including any last sale reports in an Eligible Security

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<sup>1</sup> “Eligible Security” means any Nasdaq Global Market or Nasdaq Capital Market security, as defined in NASDAQ Rule 4200. Eligible Securities under the UTP Plan does not include any security that is defined as an “Eligible Security” within Section VII of the Consolidated Tape Association Plan.

<sup>2</sup> A “Regulatory Halt” is defined in Section III.S of the Plan as trade suspension or halt called for the purpose of dissemination of material news, as described in Section X of the Plan or that is called for where there are regulatory problems relating to an Eligible Security that should be clarified before trading therein is permitted to continue, including a trading halt for extraordinary market activity due to system misuse or malfunction under Section X.E.1 of the Plan (“Extraordinary Market Regulatory Halt”).

during a Regulatory Halt. Section X.C, however, also includes language that specifically permits the Processor during a Regulatory Halt to “collect and disseminate Transaction Information.”

In practice, during a Regulatory Halt, the Processor has been following Section X.C and will immediately disseminate last sale price reports during a Regulatory Halt. The Participants believe that the Processor’s current practice helps to reduce inefficiencies and confusion among market participants with respect to the operation of the Plan during a Regulatory Halt. As a result, the Participants have determined it appropriate to amend the language of the Plan to resolve the inconsistent language described above in order to confirm that the Processor may continue to disseminate last sale price reports during a Regulatory Halt. In addition the amendment would also align the Plan language with a corresponding amendment being proposed by the CTA Plan.

Further, the Participants believe that the amendment would help avoid race conditions. By way of example, when a primary market initiates a Regulatory Halt, it sends notifications to the Processor and other Participants. A trade may occur at a Participant before that Participant receives notification of the Regulatory Halt and thereby reports the trade to the Processor after the Processor receives notification of the Regulatory Halt. The Participants believe it would be impractical for the Processor to determine that a transaction occurred either before or after a Participant received notification of a Regulatory Halt, and therefore whether to immediately disseminate or refrain from disseminating the trade report until permissible. Consequently, the Participants believe that it is appropriate to place the responsibility on the individual Participants to determine whether or not a transaction should be printed during a Regulatory Halt, and the Processor should simply act as a pass-through for the information that it receives from the Participants. Therefore, the amendment will permit the Processor to continue to disseminate any last sale price reports received during a Regulatory Halt, without reference to the specific race condition identified above.

2. Governing or Constituent Documents

Not applicable.

3. Implementation of Amendment

Each of the Participants has approved the amendments in accordance with Section IV.C of the UTP Plan. The Participants also received feedback from the Advisory Committee on amending the Plan to resolve ambiguous language in the Plan to confirm that the Processor may disseminate last sale price reports and align the Plan with the corresponding amendments proposed by the CTA Plan.

4. Development and Implementation Phases

Not applicable.

5. Analysis of Impact on Competition

The Participants believe that the proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934, as amended. The Participants believe that amending the Plan to resolve inconsistent language with respect to dissemination of information by the Processor during Regulatory Halts reduces inefficiencies and confusion among market participants with respect to the operation of the Plan during a Regulatory Halt. Additionally, the Participants believe that the amendment will serve to increase transparency in the marketplace by disseminating Transaction Reports closer in time to when such transactions actually occurred. The Participants also have approved a corresponding amendment to the CTA Plan thereby aligning the operation of the Plan with the CTA Plan.

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

Not applicable.

7. Approval by Sponsors in Accordance with Plan

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

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

Not applicable.

9. Terms and Conditions of Access

Not applicable.

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

Not applicable.

11. Method and Frequency of Processor Evaluation

Not applicable.

12. Dispute Resolution

Not applicable.

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

1. Equity Securities for which Transaction

Reports Shall be Required by the Plan

Not applicable.

2. Reporting Requirements

Not applicable.

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

The amendment would resolve ambiguous Plan language to clarify that the Processor may continue to disseminate Transaction Reports of last sale prices for transactions received by the Processor during a Regulatory Halt.

4. Manner of Consolidation

Not applicable.

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

Not applicable.

6. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

7. Terms of Access to Transaction Reports

Not applicable.

8. Identification of Marketplace of Execution

Not applicable.

Sincerely yours,



Robert Books  
Chair, UTP Plan Operating Committee

cc: UTP Plan Participants (w/o attachments)  
Plan Advisory Committee Members  
Michael Coe (SEC)

## AMENDMENT NO. 45

### 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 (“UTP PLAN”)

#### Regulatory Halt Amendment

AGREEMENT made as of the [ ] day of August, 2019, among Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors’ Exchange 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., and NYSE National, Inc. (collectively, the “Participants”).

The Participants enter into this Agreement in order to remove any ambiguity within the Plan with regards to the dissemination of Transaction Reports for transactions received by the Processor during a Regulatory Halt.

For those purposes, the Participants agree that:

(a) Section X of the UTP Plan is amended as follows:

#### X. Regulatory Halts

A. Whenever, in the exercise of its regulatory functions, the Listing Market for an Eligible Security determines that a Regulatory Halt is appropriate pursuant to Section III.S, the Listing Market will notify all other Participants pursuant to Section X.E and all other Participants shall also halt or suspend trading in that security until notified that the halt or suspension is no longer in effect. The Listing Market shall immediately notify the Processor of such Regulatory Halt as well as provide notice that a Regulatory Halt has been lifted. The Processor, in turn, shall disseminate to Participants notice of the Regulatory Halt (as well as notice of the lifting of a Regulatory Halt through the UTP Quote Data Feed. This notice shall serve as official notice of a Regulatory Halt for purposes of the Plan only, and shall not substitute or otherwise supplant notice that a Participant may recognize or require under its own rules. Nothing in this provision shall be read so as to supplant or be inconsistent with a Participant’s own rules on trade halts, which rules apply to the Participant’s own members. The Processor will reject any Quotation Information received from any Participant on an Eligible Security that has a Regulatory Halt in effect.

B. Whenever the Listing Market determines that adequate publication or dissemination of information has occurred so as to permit the termination of the Regulatory Halt then in effect, the Listing Market shall promptly notify the Processor and each of the other Participants that conducts trading in such security pursuant to Section X.F. Except in extraordinary circumstances, adequate publication or dissemination shall be presumed by the

Listing Market to have occurred upon the expiration of one hour after initial publication in a national news dissemination service of the information that gave rise to the Regulatory Halt.

C. Except in the case of a Regulatory Halt, the Processor shall not cease the dissemination of Quotation Information regarding any Eligible Security. In particular, it shall not cease dissemination of such information because of a delayed opening, imbalance of orders or other market-related problems involving such security. During a Regulatory Halt, the Processor shall collect and disseminate Transaction Reports but shall cease collection and dissemination of all Quotation Information.

D. For purposes of this Section X, "Listing Market" for an Eligible Security means the Participant's Market on which the Eligible Security is listed. If an Eligible Security is dually listed, Listing Market shall mean the Participant's Market on which the Eligible Security is listed that also has the highest number of the average of the reported transactions and reported share volume for the preceding 12-month period. The Listing Market for dually-listed Eligible Securities shall be determined at the beginning of each calendar quarter.

E. For purposes of coordinating trading halts in Eligible Securities, all Participants are required to utilize the national market system communication media ("Hoot-n-Holler") to provide real-time information to all Participants. Each Participant shall be required to continuously monitor the Hoot-n-Holler system during market hours, and the failure of a Participant to do so at any time shall not prevent the Listing Market from initiating a Regulatory Halt in accordance with the procedures specified herein.

1. The following procedures shall be followed when one or more Participants experiences extraordinary market activity in an Eligible Security that is believed to be caused by the misuse or malfunction of systems operated by or linked to one or more Participants.
  - a. The Participant(s) experiencing the extraordinary market activity or any Participant that becomes aware of extraordinary market activity will immediately use best efforts to notify all Participants of the extraordinary market activity utilizing the Hoot-n-Holler system.
  - b. The Listing Market will use best efforts to determine whether there is material news regarding the Eligible Security. If the Listing Market determines that there is undisclosed material news, it will immediately call a Regulatory Halt pursuant to Section X.E.2.
- c. Each Participant(s) will use best efforts to determine whether one of its systems, or the system of a direct or indirect participant in its market, is responsible for the extraordinary market activity.
- d. If a Participant determines the potential source of extraordinary market activity pursuant to Section X.1.c., the Participant will use best efforts to determine whether removing the quotations of one or more direct or indirect market

participants or barring one or more direct or indirect market participants from entering orders will resolve the extraordinary market activity. Accordingly, the Participant will prevent the quotations from one or more direct or indirect market participants in the affected Eligible Securities from being transmitted to the Processor.

- e. If the procedures described in Section X.E.1.a.-d. do not rectify the situation, the Participant(s) experiencing extraordinary market activity will cease transmitting all quotations in the affected Eligible Securities to the Processor.
- f. If the procedures described in Section X.E.1.a-e do not rectify the situation within five minutes of the first notification through the Hoot-n-Holler system, or if Participants agree to call a halt sooner through unanimous approval among those Participants actively trading impacted Eligible Securities, the Listing Market may determine based on the facts and circumstances, including available input from Participants, to declare an Extraordinary Market Regulatory Halt in the affected Eligible Securities. Simultaneously with the notification of the Processor to suspend the dissemination of quotations across all Participants, the Listing Market must notify all Participants of the trading halt utilizing the Hoot-n-Holler system.
- g. Absent any evidence of system misuse or malfunction, best efforts will be used to ensure that trading is not halted across all Participants.

2. If the Listing Market declares a Regulatory Halt in circumstances other than pursuant to Section X.E.1.f., the Listing Market must, simultaneously with the notification of the Processor to suspend the dissemination of quotations across all Participants, notify all Participants of the trading halt utilizing the Hoot-n-Holler system.

F. If the Listing Market declares a Regulatory Halt, trading will resume according to the following procedures:

1. Within 15 minutes of the declaration of the halt, all Participants will make best efforts to indicate via the Hoot-n-Holler their intentions with respect to canceling or modifying transactions.
2. All Participants will disseminate to their members information regarding the canceled or modified transactions as promptly as possible, and in any event prior to the resumption of trading.
3. After all Participants have met the requirements of Section X.F.1- 2, the Listing Market will notify the Participants utilizing the Hoot-n-Holler and the Processor when trading may resume. Upon receiving this information, Participants may commence trading pursuant to Section X.A.

\* \* \* \* \*



Addendum 1 to this Agreement contains an additional version of Section X, marked to show the proposed changes set forth in this Agreement. In Addendum 1, proposed additions are double-underlined and proposed deletions are [~~struck through and bracketed~~].

These amendments to the Plan will be effective upon approval by the Commission.

The Participants may execute this Agreement in counterparts, no one of which need contain all signatures of all executing parties. A set of those counterparts that contains all such signatures shall constitute one and the same instrument.

Except for the amendments contained in this amendment, the Plan is unchanged and remains in full force and effect.

Dated: 8/20/2019

CBOE BYX EXCHANGE, INC.

By 

Dated: 8/20/2019

CBOE BZX EXCHANGE, INC.

By 

Dated: 8/20/2019

CBOE EDGA EXCHANGE, INC.

By 

Dated: 8/20/2019

CBOE EDGX EXCHANGE, INC.

By 

Dated: 8/20/2019

CBOE EXCHANGE, INC.

By 

CHICAGO STOCK EXCHANGE, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

FINANCIAL INDUSTRY REGULATORY  
AUTHORITY, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

INVESTORS' EXCHANGE LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ BX, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ ISE, LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ PHLX LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

CBOE EXCHANGE, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

CHICAGO STOCK EXCHANGE, INC.

Dated: 8/20/19

By 

FINANCIAL INDUSTRY REGULATORY  
AUTHORITY, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

INVESTORS' EXCHANGE LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ BX, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ ISE, LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ PHLX LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

CBOE EXCHANGE, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_


CHICAGO STOCK EXCHANGE, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

FINANCIAL INDUSTRY REGULATORY  
AUTHORITY, INC.

Dated: 9/4/19

By   
OLA PERSSON

INVESTORS' EXCHANGE LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ BX, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ ISE, LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ PHLX LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

CBOE EXCHANGE, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

CHICAGO STOCK EXCHANGE, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_


FINANCIAL INDUSTRY REGULATORY  
AUTHORITY, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

INVESTORS' EXCHANGE LLC

Dated: 8/21/19

By  \_\_\_\_\_

NASDAQ BX, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ ISE, LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ PHLX LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

CBOE EXCHANGE, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

CHICAGO STOCK EXCHANGE, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

FINANCIAL INDUSTRY REGULATORY  
AUTHORITY, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

INVESTORS' EXCHANGE LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ BX, INC.

Dated: 8-28-19

By  \_\_\_\_\_

NASDAQ ISE, LLC

Dated: 8-28-19

By  \_\_\_\_\_

NASDAQ PHLX LLC

Dated: 8-28-19

By  \_\_\_\_\_

NASDAQ STOCK MARKET LLC

Dated: 8-28-19

By  \_\_\_\_\_

NEW YORK STOCK EXCHANGE LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NYSE AMERICAN LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NYSE ARCA, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

NYSE NATIONAL, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_

NASDAQ STOCK MARKET LLC

Dated: \_\_\_\_\_

By \_\_\_\_\_

NEW YORK STOCK EXCHANGE LLC

Dated: 8/20/19

By 

NYSE AMERICAN LLC

Dated: 8/20/19

By 

NYSE ARCA, INC.

Dated: 8/20/19

By 

NYSE NATIONAL, INC.

Dated: 8/20/19

By 



## ADDENDUM 1

### To the Forty-Fifth Amendment to the Plan

#### PROPOSED AMENDMENTS TO THE UTP PLAN

##### MARKED TO SHOW CHANGES FROM THE EXISTING PLAN

(Additions are double-underlined; Deletions are [~~struck through and bracketed~~].)

#### X. Regulatory Halts

A. Whenever, in the exercise of its regulatory functions, the Listing Market for an Eligible Security determines that a Regulatory Halt is appropriate pursuant to Section III.S, the Listing Market will notify all other Participants pursuant to Section X.E and all other Participants shall also halt or suspend trading in that security until notified that the halt or suspension is no longer in effect. The Listing Market shall immediately notify the Processor of such Regulatory Halt as well as provide notice that a Regulatory Halt has been lifted. The Processor, in turn, shall disseminate to Participants notice of the Regulatory Halt (as well as notice of the lifting of a Regulatory Halt through the UTP Quote Data Feed. This notice shall serve as official notice of a Regulatory Halt for purposes of the Plan only, and shall not substitute or otherwise supplant notice that a Participant may recognize or require under its own rules. Nothing in this provision shall be read so as to supplant or be inconsistent with a Participant's own rules on trade halts, which rules apply to the Participant's own members. The Processor will reject any Quotation Information [~~quotation information or transaction reports~~] received from any Participant on an Eligible Security that has a Regulatory Halt in effect.

B. Whenever the Listing Market determines that adequate publication or dissemination of information has occurred so as to permit the termination of the Regulatory Halt then in effect, the Listing Market shall promptly notify the Processor and each of the other Participants that conducts trading in such security pursuant to Section X.F. Except in extraordinary circumstances, adequate publication or dissemination shall be presumed by the Listing Market to have occurred upon the expiration of one hour after initial publication in a national news dissemination service of the information that gave rise to the Regulatory Halt.

C. Except in the case of a Regulatory Halt, the Processor shall not cease the dissemination of [~~quotation or transaction information~~] Quotation Information regarding any Eligible Security. In particular, it shall not cease dissemination of such information because of a delayed opening, imbalance of orders or other market-related problems involving such security. During a Regulatory Halt, the Processor shall collect and disseminate [~~Transaction Information~~] Transaction Reports but shall cease collection and dissemination of all Quotation Information.

D. For purposes of this Section X, "Listing Market" for an Eligible Security means the Participant's Market on which the Eligible Security is listed. If an Eligible Security is dually listed, Listing Market shall mean the Participant's Market on which the Eligible Security is listed that also has the highest number of the average of the reported transactions and reported share

volume for the preceding 12-month period. The Listing Market for dually-listed Eligible Securities shall be determined at the beginning of each calendar quarter.

E. For purposes of coordinating trading halts in Eligible Securities, all Participants are required to utilize the national market system communication media (“Hoot-n-Holler”) to provide real-time information to all Participants. Each Participant shall be required to continuously monitor the Hoot-n-Holler system during market hours, and the failure of a Participant to do so at any time shall not prevent the Listing Market from initiating a Regulatory Halt in accordance with the procedures specified herein.

1. The following procedures shall be followed when one or more Participants experiences extraordinary market activity in an Eligible Security that is believed to be caused by the misuse or malfunction of systems operated by or linked to one or more Participants.
  - a. The Participant(s) experiencing the extraordinary market activity or any Participant that becomes aware of extraordinary market activity will immediately use best efforts to notify all Participants of the extraordinary market activity utilizing the Hoot-n-Holler system.
  - b. The Listing Market will use best efforts to determine whether there is material news regarding the Eligible Security. If the Listing Market determines that there is undisclosed material news, it will immediately call a Regulatory Halt pursuant to Section X.E.2.
- c. Each Participant(s) will use best efforts to determine whether one of its systems, or the system of a direct or indirect participant in its market, is responsible for the extraordinary market activity.
- d. If a Participant determines the potential source of extraordinary market activity pursuant to Section X.1.c., the Participant will use best efforts to determine whether removing the quotations of one or more direct or indirect market participants or barring one or more direct or indirect market participants from entering orders will resolve the extraordinary market activity. Accordingly, the Participant will prevent the quotations from one or more direct or indirect market participants in the affected Eligible Securities from being transmitted to the Processor.
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- f. If the procedures described in Section X.E.1.a-e do not rectify the situation within five minutes of the first notification through the Hoot-n-Holler system, or if Participants agree to call a halt sooner through unanimous approval among those Participants actively trading impacted Eligible Securities, the Listing Market may

- determine based on the facts and circumstances, including available input from Participants, to declare an Extraordinary Market Regulatory Halt in the affected Eligible Securities. Simultaneously with the notification of the Processor to suspend the dissemination of quotations across all Participants, the Listing Market must notify all Participants of the trading halt utilizing the Hoot-n-Holler system.
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  3. After all Participants have met the requirements of Section X.F.1- 2, the Listing Market will notify the Participants utilizing the Hoot-n-Holler and the Processor when trading may resume. Upon receiving this information, Participants may commence trading pursuant to Section X.A.