NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.


PLACE: Commissioners’ Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 17, 2004

There are no meetings scheduled for the Week of May 17, 2004.

Week of May 24, 2004—Tentative

Tuesday, May 25, 2004

2 p.m.—Discussion of Management Issues (Closed—Ex. 2)

Wednesday, May 26, 2004

10:30 a.m.—All Employees Meeting (Public Meeting)

1:30 p.m.—All Employees Meeting (Public Meeting)

Week of May 31, 2004—Tentative

Wednesday, June 2, 2004

9:30 a.m.—Briefing on Equal Employment Opportunity Program (Public Meeting) (Contact: Corenthis Kelley, 301–415–7380)

This meeting will be webcast live at the Web address—http://www.nrc.gov

1:30 p.m.—Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360)

This meeting will be webcast live at the Web address—http://www.nrc.gov

Week of June 7, 2004—Tentative

Thursday, June 10, 2004

1:30 p.m.—Discussion of Security Issues (Closed—Ex. 1)

Week of June 14, 2004—Tentative

There are no meetings scheduled for the Week of June 14, 2004.

Week of June 21, 2004—Tentative

There are no meetings scheduled for the Week of June 21, 2004.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49669; File No. S7–24–89]


I. Introduction

Pursuant to Rule 11Aa3–2¹ and Rule 11Aa3–1² under the Securities Exchange Act of 1934 (“Act” or “Exchange Act”), notice is hereby given that on April 22, 2004, the Cincinnati Stock Exchange, Inc. (“CSE”), on behalf of itself and the National Association of Securities Dealers, Inc. (“NASD”), the American Stock Exchange LLC (“Amex”), the Boston Stock Exchange, Inc. (“BSE”), the Chicago Stock Exchange, Inc. (“CHX”), the Pacific Exchange, Inc. (“PCX”), and the Philadelphia Stock Exchange, Inc. (“PHLX”) (hereinafter referred to as “Participants”), as members of the operating committee (“Operating Committee” or “Committee”)³ of the Plan submitted to the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend the Plan (“Amendment 13C”). The proposal reflects several changes unanimously adopted by the Committee.⁴ The Commission is putting

¹ 17 CFR 240.11Aa3–2.
² 17 CFR 240.11Aa3–1.
⁴ The Committee is made up of all the Participants.
⁵ At the time Amendment 13C was approved by the Committee, Amendment 13A had been published in the Federal Register. See Securities Exchange Act Release No. 49137 (January 28, 2004), 69 FR 5217 (February 3, 2004). The Operating Committee adopted Amendment 13B, but agreed to hold the amendment pending resolution of the current status of the SIP selection process. The Operating Committee had reserved Amendment 14 for significant future modifications to the Plan that would, among other things, reflect changes in preparation for implementation of the new SIP. Accordingly, this amendment is numbered 13C.
III. Description and Purpose of the Plan

As a result of aberrant pricing in trading of shares on December 5, 2003, the Division of Market Regulation (“Division”) required the participants to provide better coordination among the self-regulatory organization (“SRO”) trading markets concerning SRO trading halts. The NASD, acting through its subsidiary, Nasdaq, proposed Amendment 13C to address changes to the Plan related to the coordination of instituting and lifting SRO trading halts. Amendment 13C to the Plan reflects changes to the regulatory halt section that were unanimously approved by the Operating Committee. The proposed text of Amendment 13C is attached as Exhibit A. The following is a summary of the changes to the Plan proposed in Amendment 13C.

1. Section III.T of the Plan provides for the definition of Regulatory Halt. Proposed Amendment 13C adds to the definition an “Extraordinary Market Regulatory Halt” that is a trading halt due to extraordinary market activity as a result of system misuse or malfunction as further defined in a subsequent section of this Amendment.

2. Section X of the Plan provides that the Primary Market declares Regulatory Halt. Proposed Amendment 13C replaces Primary Market with “Listing Market” which is defined as the Participant’s Market on which a security is listed. In the case of dual listings, the Listing Market will be the Listing Market which has the highest number of the average of reported transactions and reported share volume for the preceding 12-month period as determined at the beginning of each calendar quarter.

3. Proposed Amendment 13C clarifies that “Participant” for purposes of Section X includes the Nasdaq Stock Market despite the fact that Nasdaq is not currently a signatory to the Plan.

4. Proposed Amendment 13C adds Section X.E, which establishes communication procedures to coordinate communication among Plan Participants in the instance of a trading halt. Specifically, the proposed Plan amendment introduces the use of the “Hoot-n-Holler” for communicating real-time information among Participants. Furthermore, the proposed amendment requires continuous monitoring of the Hoot-n-Holler by all Participants during market hours. The proposed procedures in the instance of a Participant(s) experiencing extraordinary market activity in an Eligible Security include:

a. Immediate notification over the Hoot-n-Holler;

b. Best efforts to determine the source of the extraordinary market activity;

c. An attempt by the Participant(s) to prevent quotes from a direct or indirect market participant from being transmitted to the Processor;

d. If the problem is not rectified, the Participant(s) will cease transmitting quotes to the Processor in the affected security; and

e. If within five minutes the problem is not rectified from the initial notification over the Hoot-n-Holler, or if decided earlier through unanimous approval from all Participants actively trading the affected security, the Listing Market based on facts and circumstances may declare over the Hoot-n-Holler an Extraordinary Market Regulatory Halt.

5. The Plan has been amended to add Section X.F to clarify procedures for the resumption of trading after a Regulatory Halt. This includes a requirement that all Participants will use best efforts to indicate their intentions with respect to canceling or modifying trades within fifteen minutes of the declaration of the halt. Furthermore, the amendment clarifies that Participants will disseminate information regarding canceled or modified trading as soon as possible before the resumption of trading. Lastly, the Listing Market will...
notify Participants over the Hoot-n-Holler when trading may resume.

IV. Date of Effectiveness of the Proposed Amendment

The Commission has determined, pursuant to Rule 11Aa3–2(c)(4) under the Act,14 that the amendments detailed above in Amendment 13C will be effective upon publication of this notice of amendment in the Federal Register on a temporary basis not to exceed 120 days. The Commission finds that this action is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of a national market system in furtherance of the purposes of the Act. The Commission believes that it is necessary and appropriate to put Amendment 13C into effect summarily because it will enhance investor protection by improving the coordination among SROs when instituting and lifting trading halts. The amendment should also further the maintenance of fair and orderly markets.

V. Solicitation of Comments

The Commission seeks general comments on Amendment 13C. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed plan amendment 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 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 Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All comment letters should refer to File No. 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 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 inspection and copying in the Commission’s Public Reference Room. Amendment 13C is being published as Exhibit A to this proposal. Copies of the proposal will also be available for inspection and copying at the office of the Secretary of the Committee, currently located at Pacific Exchange, Inc. and Archipelago Exchange L.L.C. 100 South Wacker Drive, Suite 2000, Chicago, 60606. 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 No. S7–24–89 and should be submitted on or before June 8, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.15

Jill M. Peterson,
Assistant Secretary.

Exhibit A

Additions are italicized, and deletions are in [brackets].

AMENDMENT NO. 13C  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

AGREEMENT made as of the 15th day of December, 2003, by the undersigned registered national securities association and national securities exchanges (collectively referred to as “Participants”), that are parties to the plan (“UTP Plan” or “Plan”) submitted to the Securities and Exchange Commission (“Commission”).

The parties agree as follows:

1. Section III (Definitions), shall be amended to read as follows (deletions are in brackets and additions are in italics):

III. Definitions

T. “Regulatory Halt” means a trade suspension or halt called for the purpose of dissemination of material news, as described at Section X hereof 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”).

14 17 CFR 240.11Aa3–2(c)(4).

number of reported transactions and the reported share volume in an Eligible Security in any other Participant’s Market exceeds 50% of the aggregate reported transactions and reported share volume of all Participants in such security, then that Participant’s Market shall be the Primary Market for such Eligible Security. 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 verbally 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 no disclosed 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.E.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 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 verbally notify all Participants of the trading halt utilizing the Hoot-n-Holler system.

f. 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, verbally notify all Participants of the trading halt utilizing the Hoot-n-Holler system.

This amendment to the UTP Plan will be effective when approved by the Commission. The parties may execute this Agreement in counterparts, no one of which need contain all signatures of all executing parties. As many of the counterparts as shall together contain all such signatures will constitute one and the same instrument.

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

IN WITNESS WHEREOF, this Plan has been executed as of the ___ day of December, 2003, by each of the Signatories hereto.

AMERICAN STOCK EXCHANGE, LLC
BY:
BOSTON STOCK EXCHANGE, INC.
BY:
CHICAGO STOCK EXCHANGE, INC.
BY:
THE CINCINNATI STOCK EXCHANGE
BY:
NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

DEPARTMENT OF STATE
[Public Notice 4722]

Determination and Certification Under Section 40A of the Arms Export Control Act

Pursuant to section 40A of the Arms Export Control Act (22 U.S.C. 2781), and Executive Order 11958, as amended, I hereby determine and certify to the Congress that the following countries are not cooperating fully with United States antiterrorism efforts: Cuba; Iran; North Korea; Syria; Libya.

I hereby notify that the decision to retain Libya on the list of countries not fully cooperating with U.S. antiterrorism efforts comes in the context of an on-going and comprehensive review of Libya’s record of support for terrorism. While this process is not complete, Libya has taken significant steps to repudiate its past support for terrorism. When our review of Libya’s overall record is complete, we will be pleased to consult with the Congress further.

This determination and certification shall be transmitted to the Congress and published in the Federal Register.


Colin L. Powell, Secretary of State, Department of State.

[FR Doc. 04–11177 Filed 5–17–04; 8:45 am]