

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55454; File No. SR-OPRA-2007-01)

March 13, 2007

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to Adopt a Revised Form "Third Party Billing Agreement"

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on February 23, 2007 the Options Price Reporting Authority ("OPRA") submitted to the Securities and Exchange Commission ("Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan").<sup>3</sup> The proposed OPRA Plan amendment would adopt a revised form "Third Party Billing Agreement."

I. Description and Purpose of the Amendment

OPRA states that the purpose of the proposed amendment is to adopt a revised form "Third Party Billing Agreement" for use by a Professional Subscriber that has entered into a Professional Subscriber Agreement ("PSA") with OPRA and that wishes to agree with a third party ("Third Party Payor") that the Third Party Payor will be responsible for payment of OPRA's charges with respect to receipt by the Professional Subscriber of OPRA Information.

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

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3-2). See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at <http://www.opradata.com>.

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The six participants to the OPRA Plan are the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the International Securities Exchange, Inc., the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc.

The revised form includes language that is intended to make it easier for a Professional Subscriber and Third Party Payor to conclude, in an appropriate situation, that payment of OPRA's fees by the Third Party Payor is eligible for the safe harbor under Section 28(e) of the Act.<sup>4</sup> In particular, the revised form states expressly that OPRA will waive a Professional Subscriber's obligation under its PSA to pay OPRA's fees in consideration for the agreement of the Third Party Payor to pay fees directly to OPRA for the Professional Subscriber's receipt of OPRA Information.

## II. Implementation of the OPRA Plan Amendment

Pursuant to paragraphs (b)(3) of Rule 608 under the Act,<sup>5</sup> OPRA designates this amendment as concerned solely with the administration of the OPRA Plan and/or as involving solely technical or ministerial matters, thereby qualifying for effectiveness upon filing.

OPRA states that it will begin to use the proposed revised form "Third Party Billing Agreement" upon filing with the Commission. However, OPRA states that these revised documents would be used only on a prospective basis. Existing Professional Subscribers and Third Party Payors that are parties to existing payment arrangements would not be required to execute the revised form. However, upon the request from a Professional Subscriber and Third Party Payor, OPRA will execute the revised form with respect to their existing payment arrangement if the Third Party Payor is current in its payments.

The Commission may summarily abrogate the amendment within sixty days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule

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<sup>4</sup> 15 U.S.C. 78bb.

<sup>5</sup> 17 CFR 242.608(b)(3).

608(b)(2) under the Act<sup>6</sup> if it appears to the Commission that such action is 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, or otherwise in furtherance of the purposes of the Act.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA 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](mailto:rule-comments@sec.gov). Please include File No. SR-OPRA-2007-01 on the subject line.

#### Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OPRA-2007-01. 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 plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than

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<sup>6</sup> 17 CFR 242.608(b)(2).

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. Copies of such filing also will be available for inspection and copying at the principal office of OPRA. 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 SR-OPRA-2007-01 and should be submitted on or before [insert 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(29).