

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-63106; File No. SR-OPRA-2010-01)

October 14, 2010

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to Identify the Securities Industry Automation Corporation as OPRA's Independent System Capacity Advisor

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 September 29, 2010, 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 amendment would reflect the fact that OPRA has selected the Securities Industry Automation Corporation ("SIAC") to act as OPRA's "Independent System Capacity Advisor" or "ISCA" commencing on October 1, 2010. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

I. Description and Purpose of the Plan Amendment

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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 eight participants to the OPRA Plan are BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, International Securities Exchange, LLC, NASDAQW OMX BX, Inc., NASDAQ OMX PHLX, Inc., NASDAQ Stock Market LLC, NYSE Amex, Inc., and NYSE Arca, Inc.

In 2003, OPRA revised the manner in which it engages in capacity planning and allocates capacity among the exchanges (“Exchanges”) that are parties to the OPRA National Market System Plan (the “OPRA Plan” or “Plan”).<sup>4</sup> As part of that revision, OPRA amended the Plan to provide for an “Independent System Capacity Advisor” or “ISCA.” In essence, the function of the ISCA is to receive, on a confidential basis, capacity projections from each of the Exchanges and to use those projections to determine whether and when to modify the system used by OPRA to process, consolidate and distribute options Last Sale Reports and Quotation Information and related information pursuant to the Plan, and how the cost of such modifications is to be allocated among the Exchanges.<sup>5</sup> OPRA undertook in its Plan as amended in 2003 to file with the Commission, for effectiveness upon filing, the identity of the person or organization that it selected to act as ISCA.<sup>6</sup> In 2003, OPRA selected The Options Clearing Corporation (“OCC”) to act as the ISCA, and OCC agreed to act in that capacity.

OPRA and OCC have now agreed that OCC will cease to act as the ISCA effective October 1, 2010. OPRA has selected SIAC to act as ISCA commencing on October 1, 2010, and SIAC has agreed to act in that capacity commencing on that date. SIAC is well known to OPRA

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<sup>4</sup> See Release No. 34-48822 (November 21, 2003), approving File No. SR-OPRA-2003-01. OPRA reorganized as a limited liability company effective as of January 1, 2010, and the current OPRA Plan is entitled “Limited Liability Company Agreement of Options Price Reporting Authority, LLC.” See Release No. 34-61367 (January 10, 2010), approving File No. SR-OPRA-2009-01, for a description of the current OPRA Plan. The current OPRA Plan is available on OPRA’s website at [www.opradata.com](http://www.opradata.com).

<sup>5</sup> Release No. 34-48822 contains a more extensive description of the functions performed by the ISCA.

<sup>6</sup> This undertaking is in the definition of “Independent System Capacity Advisor” in Section 1.1 of the OPRA Plan as currently in effect: “The identity of the person, persons or organization selected to act as ISCA in accordance with the foregoing shall be filed with the Commission as an amendment to OPRA’s national market system plan pursuant to Rule 11Aa3-2 under the Exchange Act, eligible to be put into effect upon filing in accordance with paragraph (c)(3) of that Rule.” Rule 11Aa3-2 is now Rule 608, and paragraph (c)(3) of Rule 11Aa3-2 is now paragraph (b)(3) of Rule 608.

since it has for many years acted as OPRA’s “Processor” and has, in that capacity, provided the data processing services needed to develop, operate and maintain the OPRA System.

As part of the revision of the OPRA Plan in 2003, OPRA adopted “Capacity Guidelines” set forth in an Attachment to, and incorporated in, the Plan. The Capacity Guidelines provide guidance to the ISCA in the performance of its functions. The Capacity Guidelines include a requirement that the ISCA maintain internal safeguards and procedures that are, among other things, “sufficient to assure that confidential information provided to the ISCA by the parties [i.e., the Exchanges] is not shared with any of the other parties except in the form of aggregate capacity requests or other aggregate information that does not identify the individual capacity requests of any of the parties, and to further assure that such information will not be used by the ISCA in any of its other business activities in a manner that may result in its being made available to any of the other parties or that is otherwise inconsistent with the confidentiality of such information.”<sup>7</sup> The Capacity Guidelines require that “Prior to the time it first exercises its authority under the Plan, the ISCA shall have furnished a written description of these internal safeguards and procedures to the Commission.”<sup>8</sup> OPRA has worked with SIAC to develop appropriate internal safeguards and procedures that are substantially similar to the safeguards and procedures maintained by OCC, and has asked SIAC to furnish a written description of its safeguards and procedures to the Commission prior to October 1, 2010.

The text of the proposed amendment to the OPRA Plan is available at OPRA, the Commission’s Public Reference Room, <http://opradata.com>, and on the Commission’s website at [www.sec.gov](http://www.sec.gov).

## II. Implementation of the OPRA Plan Amendment

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<sup>7</sup> See the final paragraph of Guideline 1 in the Capacity Guidelines.

<sup>8</sup> See the final paragraph of Guideline 1 in the Capacity Guidelines.

Pursuant to subparagraphs to (ii) and (iii) of paragraph (b)(3) of Rule 608 under the Act,<sup>9</sup> OPRA designated this amendment to be put into effect upon filing with the Commission.

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 608(b)(2) under the Act<sup>10</sup> if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or 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-2010-01 on the subject line.

#### Paper Comments:

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

All submissions should refer to File Number SR-OPRA-2010-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

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<sup>9</sup> 17 CFR 242.608(b)(3)(ii).

<sup>10</sup> 17 CFR 242.608(b)(2).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<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 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 3:00 p.m. 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-2010-01 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 Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(29).