

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65795; File No. SR-OPRA-2011-04)

November 21, 2011

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to the Plan to Implement the Datafeed Policy

Pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² notice is hereby given that on November 7, 2011, 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”).³ The proposed amendment implements a revised datafeed policy (the “Policy” or “Datafeed Policy”). 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

The purpose of OPRA’s Datafeed Policy is to summarize, in one document, OPRA’s definition of the term “datafeed” and a summary of information of interest to any prospective Vendor or Professional Subscriber that will receive a datafeed. OPRA requires that Professional Subscribers that receive OPRA datafeeds pay one of two fees, and requires that certain Vendors

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ 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 nine participants to the OPRA Plan are BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., NASDAQ Stock Market LLC, NYSE Amex, Inc., and NYSE Arca, Inc.

that receive OPRA datafeeds also pay a fee. OPRA is not proposing to change the amount of these fees in this filing, but rather to clarify the terms that describe when each of them is payable.

As stated in the Policy, OPRA defines a “datafeed” or “bulk datafeed”⁴ as any uncontrolled retransmission of OPRA market data – that is, as a transmission of OPRA data in respect of which the recipient has the ability to control the entitlement of devices and/or User IDs. OPRA considers a retransmission to be “uncontrolled” if the retransmission sender does not control the entitlements of the devices and/or User IDs to which the retransmission is being sent and, instead, the recipient controls the entitlement process.

OPRA classifies a datafeed recipient as either a “Vendor” or a “Professional Subscriber.” In either case, the datafeed recipient must enter into a contract directly with OPRA. OPRA classifies a datafeed recipient as a “Vendor” if the datafeed recipient intends to further retransmit the datafeed on an “external” basis, that is, to persons not employed by the datafeed recipient. In this case, the datafeed recipient must sign a “Vendor Agreement” with OPRA. A Vendor that receives an uncontrolled retransmission from another OPRA Vendor is sometimes referred to as a “downstream Vendor,” since it is “downstream” in the dissemination of the OPRA market data from the “upstream” Vendor that is sending the data to it. A Vendor that receives a datafeed directly from OPRA’s data processor Securities Industry Automation Corporation (“SIAC”)) must pay a monthly “Direct Access Fee” to OPRA.⁵

OPRA classifies a datafeed recipient as a "Professional Subscriber" if the datafeed recipient intends to further retransmit the datafeed only on an "internal" basis, that is, only to

⁴ The Policy, as revised, makes clear that the terms “datafeed” and “bulk datafeed” as used by OPRA are synonyms.

⁵ The amount of the Direct Access Fee is stated on OPRA's Fee Schedule, which is available on OPRA's website (www.opradata.com). The base fee is currently, and has been for many years, \$1000/month.

persons employed by the datafeed recipient. In this case, the datafeed recipient must sign a “Professional Subscriber Agreement” and either an “Indirect (Vendor Pass-Through) Circuit Connection Rider” (if the Professional Subscriber is receiving the datafeed from a Vendor) or a “Direct Circuit Connection Rider” (if the Professional Subscriber is receiving the datafeed from SIAC). The word “direct” connotes that the Professional Subscriber is receiving the datafeed directly from SIAC; the word “indirect” connotes that the Professional Subscriber is receiving the datafeed from a Vendor, i.e., “indirectly,” rather than directly from SIAC.⁶ If a Professional Subscriber receives a datafeed directly from SIAC it must pay the same monthly Direct Access Fee that is payable by Vendors that receive datafeeds directly from SIAC. If a Professional Subscriber receives a datafeed from a Vendor, it must pay a monthly “Subscriber Indirect Access Fee” to OPRA.⁷

The Policy describes the steps in the process by which OPRA approves a datafeed and the documentation that OPRA requires for each type of datafeed. For a prospective Vendor, the documentation consists of the Vendor Agreement and OPRA’s form “Exhibit A” to the Vendor Agreement that has been completed by the entity. For a prospective Professional Subscriber, the documentation consists of the Professional Subscriber Agreement, one of the Riders described above, and OPRA’s form “Exhibit A” to the applicable Rider that has been completed by the entity.⁸ The Policy states that OPRA will review the documentation after it has been sent to OPRA and, if necessary, contact the prospective datafeed recipient directly for additional

⁶ The current form of the Policy expressly refers only to indirect datafeeds. The revised form expands the discussion so that it also describes direct datafeeds.

⁷ The amount of the Subscriber Indirect Access Fee is stated on OPRA’s Fee Schedule. This fee is currently, and has been for many years, \$600/month.

⁸ These documentation requirements have not changed, but they are more clearly described in the revised form of the Policy.

information. The Policy states that OPRA’s review of the application will include, among other things, a review of how the data will be displayed, the entitlement control process, and the reporting mechanism, and that the review and approval process will take approximately two weeks.

The Policy also describes OPRA’s reporting requirements for datafeed distributors and datafeed recipients. Datafeed distributors are required to report any changes in the datafeeds that they distribute on a monthly basis, and datafeed recipients are required to report with respect to their further distribution and use of OPRA data on a monthly basis.⁹

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

II. Implementation of the OPRA Plan Amendment

OPRA designated this amendment as qualified to be put into effect upon filing with the Commission in accordance with clause (i) of paragraph (b)(3) of Rule 608 under the Act.¹⁰ The Policies describe and refine longstanding OPRA technical policies with respect to the applicability of its Direct Access Fee and Subscriber Indirect Access Fee. Accordingly, OPRA will implement the amended Policy 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 Act¹¹ if it appears to the Commission that such action is necessary or

⁹ The revised form of the Policy corrects an inaccurate statement in the current form of the Policy that Professional Subscriber datafeed recipients “generally report on a quarterly basis.”

¹⁰ 17 CFR 242.608(b)(3)(i).

¹¹ 17 CFR 242.608(b)(2).

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. Please include File No. SR-OPRA-2011-04 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-2011-04. 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 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-2011-04 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.¹²

Kevin M. O'Neill
Deputy Secretary

¹² 17 CFR 200.30-3(a)(29).