

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-77586; File No. SR-OPRA-2015-03)

April 12, 2016

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information to Amend the Redistribution Fee Set Forth in OPRA's Fee Schedule

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 22, 2015, 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> Effective January 1, 2016, the OPRA Plan amendment revised the description of OPRA's reduced rate Redistribution Fee. The Commission is publishing this notice to provide interested persons an opportunity to submit written comments on the OPRA Plan amendment.

I. Description and Purpose of the Plan Amendment

The purpose of the amendment is to amend the OPRA Fee Schedule to revise the description of one of OPRA's Redistribution Fees. Specifically, the purpose of the OPRA Plan

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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.oprapdata.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 fourteen participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, EDGX Exchange, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, NYSE MKT LLC, and NYSE Arca, Inc.

amendment is to make clear that OPRA’s “reduced rate” Redistribution Fee of \$650/month is available only to Vendor Services that are intended for Subscribers that want to query specific OPRA data, and that this fee is not available for any Vendor Service that includes a data streaming capability. In effect, the OPRA Plan amendment returns the applicability of this fee to the scope that it had when it was first implemented in 1999.

An OPRA Redistribution Fee is payable by every OPRA “Vendor.” An OPRA “Vendor” is a recipient of OPRA data that redistributes the data “externally” – that is, to persons outside the data recipient itself. OPRA has had a two-tier Redistribution Fee for many years: the basic OPRA Redistribution Fee has been \$1,500/month for many years, and a reduced rate of \$650/month has been available for many years.<sup>4</sup> OPRA has referred to this reduced rate as the “Internet Service Only” rate.

The OPRA Plan amendment changed the description of the reduced rate of \$650/month to specify that the reduced rate is for “Query service only,” rather than “Internet service only,” and revised the footnote that accompanies the reduced rate to state that: “A Vendor’s Service qualifies for the ‘Query service only’ rate if the Vendor’s Service provides access to OPRA Data only on a ‘query’ basis without any auto-refreshing capability and does not redistribute OPRA Data via dedicated lines or to the systems of one or more other Vendors (sometimes referred to as ‘downstream Vendors’) or to one or more Hosted Solutions.”<sup>5</sup>

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<sup>4</sup> OPRA first introduced a reduced rate of \$600 “payable by those redistributors who utilize the Internet as their exclusive means of redistribution” in 1998. See Securities Exchange Act Release No. 40791 (December 15, 1998), 63 FR 70815 (December 22, 1998) (SR-OPRA-98-03). OPRA subsequently increased the reduced rate to \$650 in 2002. See Securities Exchange Act Release No. 45315 (January 18, 2002), 67 FR 4477 (January 30, 2002) (SR-OPRA-2001-05).

<sup>5</sup> OPRA added the footnote that accompanies the reduced rate in File No. SR-OPRA-2011-02. See Securities Exchange Act Release No. 64819 (July 6, 2011), 76 FR 40967 (July 12, 2011). OPRA’s experience has been that some Vendors have continued to assume,

When OPRA implemented the “Internet service only” Redistribution Fee, an “Internet service only” was a service that was not suitable for high-speed/high-reliability data transmission and high traffic volumes, and was a service appropriate for retail customers interested in querying specific options quotations and last sale prices.

OPRA estimates that the revised definition of the reduced rate Redistribution Fee is likely to affect between 35 and 45 of its Vendors, out of a total population of roughly 200 Vendors. Many of the remaining 155 to 165 OPRA Vendors also utilize the Internet to disseminate their data services, and pay the regular OPRA Redistribution Fee. Accordingly OPRA believes that the OPRA Plan amendment will cause all Vendors that are similarly situated in terms of the means of dissemination of their data services to be subject to the same OPRA Redistribution Fee.

For an OPRA Vendor that is required to pay the regular Redistribution Fee instead of the reduced rate as a result of the change, the change will result in an increase of \$850/month or \$10,200/year in its OPRA Redistribution Fees. If the maximum estimated number of 45 Vendors are affected by the change and none cease to be OPRA Vendors, OPRA’s annualized revenues would increase by \$459,000 as a result of the change, representing approximately a 0.67% increase in OPRA’s annualized revenues; any lesser number of Vendors being affected by the change would result in a smaller increase in OPRA’s revenues as a result of the change.

The text of the OPRA Plan amendment 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](http://www.sec.gov).

## II. Implementation of the OPRA Plan Amendment

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notwithstanding the footnote, that they qualify for the reduced rate even though they provide high message capacity data streaming services.

Pursuant to paragraph (b)(3)(i) of Rule 608 of Regulation NMS under the Act, OPRA designated this amendment as establishing or changing fees or other charges collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities. OPRA put the revised description of reduced rate Redistribution Fee into effect as of January 1, 2016.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the OPRA Plan amendment is consistent with the Act.<sup>6</sup>

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-2015-03 on the subject line.

#### Paper Comments:

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

All submissions should refer to File Number SR-OPRA-2015-03. 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

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<sup>6</sup> Pursuant to Rule 608(b)(3)(iii) of Regulation NMS, the Commission may summarily abrogate an immediately effective NMS Plan amendment within sixty days of its filing and require refiling and approval of the amendment 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 Securities Exchange Act of 1934. See 17 CFR 242.608(b)(3)(iii). The abrogation period for the OPRA Plan amendment has expired. Interested persons may nevertheless submit written comments on the OPRA Plan amendment.

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 OPRA Plan amendment that are filed with the Commission, and all written communications relating to the OPRA 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-2015-03 and should be submitted on or before [insert 21 days from date of publication in the Federal Register].

By the Commission.

Robert W. Errett  
Deputy Secretary