

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72825; File No. SR-OPRA-2014-04)

August 12, 2014

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 OPRA's Fee Schedule to Establish Fees for After-Hours Operations

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")¹ and Rule 608 thereunder,² notice is hereby given that on April 3, 2014, 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 establishes a category of fees for access to OPRA data during periods of after-hours operations. 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 the proposed amendment is to amend the OPRA Fee Schedule to include fees for access to data that OPRA disseminates as a result of trading on the markets of one or more OPRA member exchanges during hours outside of OPRA's regular hours of operations

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.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 twelve participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, International Securities Exchange, LLC, Miami International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, NASDAQ Stock Market LLC, NYSE MKT LLC, NYSE Arca, Inc., and the Topaz Exchange, LLC (d/b/a ISE Gemini).

(“after-hours” operations). One of OPRA’s member exchanges has indicated that it is planning to initiate trading during hours outside of OPRA’s regular hours of operations and to request OPRA to operate during the after-hours period when its market is open for trading. No exchange has previously made such a request, and as a result OPRA currently does not operate outside of its regular hours of operations.

OPRA’s Fee Schedule does not currently provide for fees specifically for access to OPRA data during periods of after-hours operations. OPRA believes that, in order to fairly allocate the burden of funding OPRA’s after-hours operations to those persons who choose to have access to OPRA information during periods of after-hours operations, it is appropriate, rather than to increase its current fees, to establish fees specifically for receipt of OPRA information disseminated during after-hours operations.

The after-hours service fees that OPRA is proposing are shown in Exhibit I. In general, with the exception of the Usage-based Vendor Fee and the Voice-Synthesized Market Data Service Fee – which are described below – the proposed after-hours service fees are established at approximately twenty percent of their counterparts for regular hours. For example, the after-hours Professional Subscriber Device-Based Fee is proposed to be \$5.00 per device, compared to \$27.00 per device for the regular hours Professional Subscriber Device-Based Fee, and the after-hours Nonprofessional Subscriber Fee is proposed to be \$0.25 per nonprofessional, compared to \$1.25 per nonprofessional for the regular hours Nonprofessional Subscriber Fee.

The proposed after-hours Usage-based Vendor Fees are the same as the Usage-based Vendor Fees during regular hours. The Usage-based Vendor Fees are on a “per quote” basis for either “quote packets” or “options chains,” and a quote packet or options chain disseminated during after-hours operations would include the same amount of information as one disseminated

during regular hours. Footnote 8 to the Fee Schedule is amended to apply the same “cap” concept to after-hours Usage-based Vendor Fees that currently applies during regular hours, so that these fees are capped at \$5.00 per device for Professional Subscribers and at \$.25 for nonprofessional subscribers. Footnote 5 to the Fee Schedule is revised to state an “Enterprise Rate Nonprofessional Subscriber Fee” for after-hours service of \$75,000 per month.

The Voice-Synthesized Market Data Service Fee for after-hours service is proposed at the same rate as the Usage-based Vendor Fee, as is the case for regular hours service.

OPRA is not proposing an “Enterprise Fee” alternative at this time for the after-hours Non-Display Application Fee. OPRA believes that Professional Subscribers are unlikely to be interested in an Enterprise Rate alternative for the after-hours Non-Display Application Fee. However, OPRA is prepared to implement an Enterprise Fee alternative for this fee if it becomes apparent that there is any interest in it.

Footnote 12 to the OPRA Fee Schedule provides an example to illustrate the statement in the “Description” of the Non-Display Application Fee that the fee “includes device-based fees with respect to the servers or other devices that comprise the trading engine, up to the amount” of the Non-Display Application Fee. OPRA is proposing to revise the example so that it utilizes the 2014 regular hours Professional Subscriber Device-based Fee of \$27.00 (instead of the now-obsolete 2012 Professional Subscriber Device-based Fee of \$25.00), and provides a parallel example for the after-hours fee using the after-hours “per installation” fee and the proposed after-hours Professional Subscriber Device-based Fee of \$5.00.

OPRA is not establishing an after-hours Control Service Fee or a Television Fee at this time. OPRA does not currently have any authorized control service providers, and believes that the control service provider program is not likely to be of interest during after-hours operations.

Similarly, OPRA does not anticipate that any Vendor is likely to be interested in providing television display of after-hours OPRA information. In each case, however, OPRA is prepared to make the service available if it becomes apparent that there is any interest in it.

Similarly, OPRA believes that Vendors are unlikely to be interested in an after-hours Enterprise Fee for the Hosted Solution Fee. However, OPRA is prepared to implement an Enterprise Fee alternative for this fee if it becomes apparent that there is any interest in it.

It is not possible to estimate with any precision the revenues that these fees may generate. OPRA's best guess is that these fees may generate up to \$100,000 in gross revenues per month a few months after they are first implemented. OPRA and the participant exchanges will incur additional costs associated with OPRA's after-hours operations, and OPRA believes that these fees will represent an appropriate contribution to covering the overall costs of OPRA and its member exchanges to which these fees may properly be applied.

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.

II. Implementation of the OPRA Plan Amendment

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. In order to give persons subject to these fees advance notice of the changes, OPRA proposes to provide notice of the changes to OPRA Vendors at least two months before the date on which one or more of OPRA's member exchanges plans to initiate trading during hours outside of OPRA's regular hours of operation, and to put the changes into effect as of the first day of a calendar

month after one or more of OPRA's member exchanges has initiated trading during hours outside of OPRA's regular hours of operation, but no sooner than July 1, 2014.

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 Act⁴ 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. Please include File No. SR-OPRA-2014-04 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-2014-04. 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

⁴ 17 CFR 242.608(b)(2).

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-2014-04 and should be submitted on or before [insert 21 days from date of publication in the Federal Register].

By the Commission.

Kevin M. O'Neill
Deputy Secretary