

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63273; File No. SR-OPRA-2010-03)

November 8, 2010

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to Revise the Device-Based Professional Subscriber Fees Charged by OPRA for its Basic Service

Pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² notice is hereby given that on October 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”).³ The proposed amendment would revise the device-based professional subscriber fees charged by OPRA in respect of its Basic Service. A conforming revision is proposed to be made to OPRA’s Enterprise Rate Professional Subscriber Fee. 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

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 eight 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.

The purpose of the amendment is to make incremental increases in OPRA's device-based professional subscriber fees in respect of its Basic Service and in the Enterprise Rate charged to those subscribers who elect that rate in place of device-based fees. These increases will be phased in over a four-year period. Specifically, it is proposed to increase the current \$23 monthly per device fee by \$1.00 in each of the years 2011, 2012, 2013 and 2014. It is also proposed to increase the Enterprise Rate, currently a monthly fee of \$23 times the number of a subscriber's U.S.-based registered representatives, by this same amount in each of these years and to make conforming changes to the minimum monthly fee under the Enterprise Rate. These increases will be effective on January 1 in each year. OPRA's Basic Service currently consists of market data and related information pertaining to all of the options listed and traded on its member Exchanges (i.e., equity options and index options, including foreign currency index options) ("OPRA Data"). Professional subscribers are persons who subscribe to OPRA Data and do not qualify for the reduced fees charged to nonprofessional subscribers. OPRA's Enterprise Rate is based on the number of a professional subscriber's U.S. registered representatives and independent investment advisers who contract with the subscriber to provide advisory services to the subscriber's customers.

The proposed increases in the device-based professional subscriber fee and in the Enterprise Rate are intended to generate revenues for OPRA and its member exchanges that are needed to cover actual and anticipated increases in the costs of collecting, consolidating, processing and disseminating options market information and assuring the reliability and integrity of that information, as well as increases in OPRA's administrative costs. These increases reflect the higher costs of enhancements to and upgrades of the OPRA system and related exchange systems that are needed in order to enable OPRA, its participant exchanges and

its vendors to handle a greater volume of market information as a result of the continuing expansion of listed options trading and to provide a greater degree of redundancy and security in the OPRA system. Increases in administrative costs largely reflect higher employee costs. Assuming the number of fee-liable devices and registered persons remains the same, OPRA estimates that the overall effect of the proposed increases in professional subscriber fees will be to increase revenues derived from these fees by approximately 4% in each of the four years covered by the proposal.

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 under the Act,⁴ OPRA designated this amendment as establishing or changing a fee or other charge 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, the first of these changes is not proposed to be put into effect until January 1, 2011. Notice of these fee changes is being sent to OPRA Vendors and Professional Subscribers at or about the date of the filing.

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 Act⁵ 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

⁴ 17 CFR 242.608(b)(3)(i).

⁵ 17 CFR 242.608(b)(2).

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-2010-03 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-2010-03. 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 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-2010-03 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.⁶

Florence E. Harmon
Deputy Secretary

⁶ 17 CFR 200.30-3(a)(29).