

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-72826; File No. SR-OPRA-2014-06)

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

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 July 2, 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").<sup>3</sup> The amendment proposes to eliminate a category of fees for access to OPRA data during periods of after-hours operations and amend certain fees for calendar year 2015. 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 in two respects: first, to eliminate fees specifically for access to data that OPRA disseminates as a result

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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 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).

of trading on the markets of one or more OPRA member exchanges during hours outside of OPRA's regular hours of operations (these hours are sometimes referred to in this filing as "after-hours"); and, second, to establish OPRA's Professional Subscriber Device-Based Fee for calendar year 2015 and make conforming changes in OPRA's Enterprise Rate Professional Subscriber Fee.

As described in a recent filing – File No. OPRA-2014-04 – 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 proposed in File No. OPRA-2014-04 to establish fees specifically for receipt of OPRA information disseminated during after-hours operations. The fees established in that filing were based on the premise that OPRA Vendors and Professional Subscribers receiving only regular-hours OPRA data would continue to pay fees only for that data, that OPRA Vendors and Professional Subscribers receiving only after-hours OPRA data would pay fees only for that data, and that OPRA Vendors and Professional Subscribers receiving both regular-hours OPRA data and after-hours OPRA data would pay fees for both data streams. In particular, File No. OPRA-2014-04 provided for an after-hours Professional Subscriber Device-Based Fee of \$5.00 per month, with that fee applicable only to devices<sup>4</sup> that are entitled for after-hours data.

Several OPRA Vendors and Professional Subscribers have subsequently advised OPRA that it is impractical for them to administer separate entitlements and fees for regular-hours

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<sup>4</sup> OPRA permits the counting of "User IDs" as a surrogate for counting "devices" for purposes of the Professional Subscriber Device-based Fees. See footnote 2 in the OPRA Fee Schedule and OPRA's "Policies with respect to Device-based Fees," which are available on the OPRA website under the "Policies" tab.

OPRA data and after-hours OPRA data, and that if the Fee Schedule proposed in File No. OPRA-2014-04 were to be implemented they would need to apply the fees for both data streams to all of their data distribution activities. This would mean that the after-hours Professional Subscriber Device-Based Fee would in effect be a \$5.00 per month increase for all devices, and that the other fees established in File No. OPRA-2014-04 for after-hours OPRA data would also be applicable to all OPRA data recipients.

OPRA is therefore revising its Fee Schedule to eliminate the fees specifically for access to after-hours OPRA data, and is also revising its Professional Subscriber Device-Based Fee to specify that the fee during year 2015 will be \$28.50 per month, an increase of \$1.50 from the fee during 2014. For the years 2008-2014, OPRA has implemented incremental \$1.00 per month increases in its Professional Subscriber Device-Based Fee.<sup>5</sup> In effect, for 2015 OPRA is implementing the same \$1.00 per month increase that it has implemented in past years plus an additional \$0.50 per month as a result of dissemination of the after-hours data. OPRA is also proposing to make conforming changes in its Enterprise Rate for 2015 so that it continues in 2015 to be the monthly Professional Subscriber Device-Based Fee times the number of a Professional Subscriber's U.S.-based registered representatives, subject to a minimum rate that is also determined by reference to the monthly Professional Subscriber Device-Based Fee.

The proposed increases in the Professional Subscriber Device-Based Fee and in the Enterprise Rate are intended to generate revenues for OPRA and its member exchanges that are

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<sup>5</sup> OPRA's practice in the recent past has been to establish the Professional Subscriber Device-Based Fee for several years at a time. Most recently, OPRA established the Professional Subscriber Device-Based Fee at \$24.00 per month for the year 2011, \$25.00 per month for the year 2012, \$26.00 per month for the year 2013 and \$27.00 per month for the year 2014. See File No. OPRA-2010-03, Release No. 34-63273 (November 8, 2010). In this filing, OPRA is establishing the Professional Subscriber Device-Based Fee only for the year 2015, since the introduction of after-hours trading makes the forecasting of future OPRA revenues particularly uncertain at this time.

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 costs include the enhancements to the OPRA system and related exchange systems that are needed in order to enable OPRA and its participant exchanges to handle the continually increasing volume of market information as a result of the continuing expansion of listed options trading, to accommodate the dissemination of after-hours data and to provide a greater degree of redundancy and security in the OPRA system. Assuming that the number of fee-liable devices and registered persons remains the same,<sup>6</sup> the effect of the increases in these fees would be to increase revenues derived from these fees by approximately 5.6% in the year 2015.

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

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 participant exchanges in connection with access to or use of OPRA facilities. OPRA proposes to put the elimination of the fees specifically for access to after-hours OPRA data into effect immediately,<sup>7</sup> and proposes to put the change in the Professional Subscriber

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<sup>6</sup> This assumption may be too optimistic, unless the introduction of after-hours trading results in the dissemination of OPRA data to additional devices and registered persons. Over the past ten years, the number of devices with access to OPRA data has decreased by approximately 32%.

<sup>7</sup> OPRA stated in File No. OPRA-2014-04 that it would put the revised Fee Schedule into effect as of the first day of a calendar month after one or more of OPRA's member exchanges had initiated after-hours trading. Since no OPRA member exchange is

Device-Based Fee into effect as of January 1, 2015. Implementation of the change in this fee on January 1 is consistent with OPRA's prior practice with respect to changes in its Professional Subscriber Device-Based Fee, and will provide ample opportunity to give persons subject to these fees advance notice of the change.

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>8</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-2014-06 on the subject line.

#### Paper Comments:

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planning to provide after-hours trading before October 2014, OPRA has not charged, and will not be charging, fees on the basis of the revised Fee Schedule described in File No. OPRA-2014-04.

<sup>8</sup> 17 CFR 242.608(b)(2).

- 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-2014-06. 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-2014-06 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