

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51716; File No. SR-OPRA-2005-01)

May 19, 2005

Options Price Reporting Authority; Order Approving an Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information to Clarify How the Requirements of the OPRA Plan Pertaining to Vendors Apply to Persons Who Redistribute OPRA Data Over the Internet

On March 30, 2005, the Options Price Reporting Authority (“OPRA”) submitted to the Securities and Exchange Commission (“Commission”), pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (“OPRA Plan”).<sup>3</sup> The proposed amendment would issue a written policy that clarifies how the requirements of the OPRA Plan pertaining to vendors apply to persons who redistribute OPRA data over the Internet. Notice of the proposal was published in the Federal Register on April 15, 2005.<sup>4</sup> The Commission received no comment letters on the proposed OPRA Plan amendment. This order approves the proposal.

The OPRA Plan generally defines a “vendor” as a person who redistributes OPRA data

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<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 240.11Aa3-2.

<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 11Aa3-2 thereunder. <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 six participants to the OPRA Plan are the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

<sup>4</sup> See Securities Exchange Act Release No. 51514 (April 8, 2005), 70 FR 19976.

(i.e., options last sale and quotation reports and related information) to persons outside of its own organization. Persons who act as vendors are required to enter into vendor agreements with OPRA and pay applicable access and redistribution fees. The purpose of the proposed Plan amendment is to adopt a written policy codifying prior interpretations concerning how provisions of the Plan applicable to “vendors” apply to persons who redistribute OPRA data by means of the Internet.

After careful review, the Commission finds that the proposed OPRA Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder.<sup>5</sup> The Commission believes that the proposed OPRA Plan amendment is consistent with Section 11A of the Act<sup>6</sup> and Rule 11Aa3-2 thereunder<sup>7</sup> in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system. Specifically, given the increasing use of the Internet as a means of providing OPRA data to subscribers and others, the Commission finds that it is appropriate to clarify exactly who among the various types of service providers involved in Internet transmission of OPRA data are considered to be performing the function of a vendor under the OPRA Plan, and therefore subject to those provisions of the OPRA Plan applicable to vendors.

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act,<sup>8</sup> and Rule 11Aa3-2

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<sup>5</sup> In approving this proposed OPRA Plan amendment, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78k-1.

<sup>7</sup> 17 CFR 240.11Aa3-2.

<sup>8</sup> 15 U.S.C. 78k-1.

thereunder,<sup>9</sup> that the proposed OPRA Plan amendment (SR-OPRA-2005-01) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>9</sup> 17 CFR 240.11Aa3-2.

<sup>10</sup> 17 CFR 200.30-3(29).