

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52146; File No. SR-OPRA-2005-02]

### 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 Revise the Manner in which OPRA's Professional Subscribers Fee at the Enterprise Rate Is Determined

July 28, 2005.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> notice is hereby given that on July 11, 2005, 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 proposed OPRA Plan amendment would revise the manner in which OPRA's Professional Subscribers Fee at the Enterprise Rate would be determined by amending the Enterprise Rate Amendment to the OPRA Professional Subscriber Agreement and the OPRA Professional Subscriber Fee Schedule. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

#### I. Description and Purpose of the Amendment

OPRA states that the purpose of the proposed amendment is to slightly revise the manner in which OPRA's Professional Subscriber Fee at the Enterprise Rate is determined. The Enterprise Rate is an alternative to OPRA's device-based professional subscriber fee, and it is based on the total number of a professional subscriber's registered representatives in the United States, its territories, and possessions as determined on the last

day of each calendar year or as determined at other times in accordance with the terms of the Enterprise Amendment to the Professional Subscriber Agreement.

The proposed amendment provides that, in reporting the number of its registered representatives, a professional subscriber need not include persons who may previously have been registered representatives, but who are, at the time of the report, legally prohibited from acting as registered representatives (because, for example, their registration has been suspended or withdrawn) and who do not so act. To the extent such persons could have been taken into account in the calculation of the Professional Subscriber Fee at the Enterprise Rate, the effect of the proposed amendment would be to reduce the amount of the Fee. In addition, the proposed amendment to the Professional Subscriber Fee Schedule reflects the elimination of outdated language referring to fees that are no longer in effect. The text of the proposed rule change is available at the principal office of OPRA and at the Commission's Public Reference Room.

#### II. Implementation of the OPRA Plan Amendment

Pursuant to paragraph (c)(3)(i) of Rule 11Aa3-2 under the Act,<sup>4</sup> OPRA designates 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, thereby qualifying for effectiveness upon 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 11Aa3-2(c)(2) under the Act,<sup>5</sup> if it appears to the Commission that such action is necessary or 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; 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-2005-02 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-OPRA-2005-02. 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 Web site (<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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. 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-2005-02 and should be submitted on or before August 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,<sup>6</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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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.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 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> 17 CFR 240.11Aa3-2(c)(3)(i).

<sup>5</sup> 17 CFR 240.11Aa3-2(c)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(29).