

these revenues will be allocated among the OPRA member exchanges in the same way that revenues derived from regular-hours operations are allocated. The result is that the Plan currently provides for the allocation of costs of after-hours trading only to the exchange or exchanges that are actually operating during the after-hours period, but for the allocation of revenues resulting from fees for access to quotation and last sale information generated in the course of after-hours operations to all of the OPRA member exchanges on the basis of the relative number of compared trades in options contracts traded on each of the OPRA member exchanges in trading during both regular hours and outside of regular hours.

OPRA is therefore proposing to revise the Plan to provide that the costs of after-hours operations will be aggregated with the costs of operating the OPRA System during regular hours of operation. The consequence of the revision would be that the aggregated costs of operating the System during all hours of operation would be allocated among all of OPRA's member exchanges, regardless of whether any particular exchange operates its market outside of regular hours. OPRA believes that this amendment will better align the provisions of the Plan relating to the allocation of costs of after-hours operations with the provisions of the Plan relating to the allocation of revenues derived from after-hours trading.

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 will be appropriate to establish such fees rather than increase its current fees, and OPRA is proposing to add a sentence in Section 5.4(d) to state expressly that it may establish such fees.⁷ However, OPRA is not proposing in this filing to amend its Fee Schedule to establish fees for access to data generated in after-hours trading.

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 Web site at www.sec.gov.

⁷ OPRA is also proposing in this filing to make a non-substantive change to Section 5.4(d) to reflect that the OPRA Fee Schedule is no longer identified as "Exhibit B" to the OPRA Plan but is publicly available on the OPRA Web site under the "Fees" tab.

II. Implementation of the OPRA Plan Amendment

OPRA will implement the proposed amendment to the OPRA Plan after this filing has been approved by the Commission in accordance with paragraph (b)(1) of Rule 608 of Regulation NMS under 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 email to rule-comments@sec.gov. Please include File No. SR-OPRA-2013-03 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-2013-03. This file number should be included on the subject line if email 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 Web site 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-

2013-03 and should be submitted on or before September 8, 2014.

By the Commission.

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72824; File No. SR-OPRA-2014-03]

Options Price Reporting Authority; Notice of Filing of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Amend OPRA's Definition of the Term "Nonprofessional"

August 12, 2014.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")¹ and Rule 608 thereunder,² notice is hereby given that on March 11, 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 revises definition of the term "Nonprofessional." 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 revise OPRA's definition of the term "Nonprofessional."

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 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).

A person may become an OPRA "Subscriber" in one of two ways.⁴ The first way is that the person may sign a "Professional Subscriber Agreement" directly with OPRA. In this case, the person pays fees directly to OPRA on the basis of the number of the person's "devices" and/or "UserIDs."

The second way is that the person may enter into a "Subscriber Agreement," not directly with OPRA, but with an OPRA "Vendor"—an entity that has entered into a "Vendor Agreement" with OPRA authorizing the entity to redistribute OPRA Data to third persons. In this case, OPRA collects fees from the Vendor with respect to the receipt of the OPRA Data by the person entering into the Subscriber Agreement. If the person qualifies as a "Nonprofessional Subscriber," OPRA caps the fee that it charges the Vendor, and the fees that the person is required to pay to the Vendor may be less than they would be if the person is classified as a "Professional Subscriber."⁵

OPRA's definition of the term "Nonprofessional" is set out in an "Addendum for Nonprofessionals" that is attached to its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement. These two forms, in turn, are Attachments B-1 and B-2 to OPRA's form of Vendor Agreement.⁶

Paragraph (c) of OPRA's current definition of the term "Nonprofessional" specifies that to qualify as a "Nonprofessional" a person must not be: "(i) Registered or qualified with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange/association, or any commodities/futures contract market/association, (ii) engaged as an "investment adviser," as that term is defined in the Investment Advisers Act of 1940 (whether or not registered or

qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under Federal and/or state securities laws to perform functions that would require you to be so registered or qualified if you were to perform such functions for an organization not so exempt." A narrow literal reading of this language could lead to the conclusion that a person who works outside of the United States as (for example) a securities broker could qualify as a "Nonprofessional," because the person is not literally described by clauses (i), (ii) or (iii) of Paragraph (c).

OPRA is not aware of any instances in which an OPRA Vendor has determined that Subscribers who work outside the United States qualify to be Nonprofessional Subscribers on the basis of reading the definition of the term "Nonprofessional" in this manner.⁷ However, OPRA believes that it is appropriate to modify the language to prevent this reading. OPRA proposes to accomplish this, essentially, by adding a phrase at the beginning of Paragraph (c) to say that the current language is applicable to persons who work in the United States and adding a sentence to Paragraph (c) to say that "For a natural person who works outside of the United States, a 'Professional' is a natural person who performs the same functions as someone who would be considered a 'Professional' in the United States." OPRA believes that the changes that it is proposing in its definition of the term "Nonprofessional" will add clarity to the definition and make clear that it is intended to generate equivalent results both inside and outside the United States.

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 Web site at www.sec.gov.

II. Implementation of the OPRA Plan Amendment

OPRA is proposing to post revised versions of its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement on its Web site, and to require Vendors to use the revised versions on a going-forward basis, as soon as this filing has been approved by the Commission in accordance with paragraph (b)(1) of Rule 608 of Regulation NMS under the

Securities Exchange Act of 1934. If OPRA becomes aware that a Vendor has been misclassifying Subscribers who work outside the United States as Nonprofessional Subscribers on the basis of a literal reading of the current language of the Addendum for Nonprofessionals, OPRA will bring the matter to the attention of the Vendor and require the Vendor to use the revised Subscriber Agreements and to reclassify the affected Subscribers.

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 email to rule-comments@sec.gov. Please include File No. SR-OPRA-2014-03 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-2014-03. This file number should be included on the subject line if email 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 Web site 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

⁴ OPRA defines a "Subscriber," in general, as an entity or person that receives OPRA Data for the person's own use.

⁵ OPRA's Fee Schedule provides that a Vendor may determine the fee that it pays with respect to its distribution of current OPRA data to a Nonprofessional Subscriber in one of two ways: Either the Vendor may pay OPRA's flat monthly Nonprofessional Subscriber Fee (currently \$1.25/month), or the Vendor may count the Nonprofessional Subscriber's queries for OPRA data and pay Usage-based Vendor Fees based on the actual usage of OPRA data by the Nonprofessional Subscriber, subject to a cap that OPRA has always set at the amount of the flat Nonprofessional Subscriber Fee.

⁶ These forms are posted on OPRA's Web site, www.opradata.com. OPRA most recently amended its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement in File No. SR-OPRA-2012-03; Release No. 34-67589 (August 2, 2012).

⁷ OPRA is aware that the definition of the term "Nonprofessional Subscriber" used by the Consolidated Tape Association ("CTA"), which is substantively identical to OPRA's definition in almost all respects, prevents a similar literal reading of its definition.

information that you wish to make available publicly. All submissions should refer to File Number SR-OPRA-2014-03 and should be submitted on or before September 8, 2014.

By the Commission.

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72825; File No. SR-OPRA-2014-04]

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

August 12, 2014.

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.

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 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).

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 ("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.