

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77585; File No. SR-OPRA-2015-02)

April 12, 2016

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 the Professional Subscriber Device-Based Fees Set Forth in OPRA's Fee Schedule

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")¹ and Rule 608 thereunder,² notice is hereby given that on September 22, 2015, 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 Effective January 1, 2016, the OPRA Plan Amendment established a new Professional Subscriber Device-Based Fee. The Commission is publishing this notice to provide interested persons an opportunity to submit written comments on the 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.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 fourteen participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, EDGX Exchange, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, NYSE MKT LLC, and NYSE Arca, Inc.

The OPRA Plan amendment revised the OPRA Fee Schedule to establish OPRA’s Professional Subscriber Device-Based Fee and made conforming changes in OPRA’s Enterprise Rate Professional Subscriber Fee. OPRA’s Enterprise Rate Professional Subscriber Fee is available to those Professional Subscribers that elect that rate in place of the regular OPRA device-based fees.⁴

Specifically, effective January 1, 2016, the OPRA Plan Amendment: increased the current \$28.50 monthly per device fee by \$1.00; increased the Enterprise Rate, from a monthly fee of \$28.50 times the number of a Professional Subscriber’s U.S.-based registered representatives, to a monthly fee of \$29.50 times the number of the Subscriber’s U.S.-based registered representatives; and made conforming changes to the minimum monthly fee under the Enterprise Rate. “Professional Subscribers” are persons who subscribe to OPRA data, do not qualify for the reduced fees charged to “Nonprofessional Subscribers,” and do not redistribute the OPRA data to third parties. OPRA permits the counting of “User IDs” as a surrogate for counting “devices” for purposes of its Professional Subscriber Device-based Fees.⁵

The number of devices reported to OPRA as subject to Professional Subscriber Device-Based Fees has been steadily trending downwards over many years. In 2008, OPRA received device-based fees, including enterprise fees, with respect to approximately 210,500 devices. In 2014, OPRA received device-based fees, including enterprise fees, with respect to approximately 148,400 devices. OPRA was receiving device-based fees in the third calendar quarter of 2015 with respect to approximately 134,000 devices – already a reduction of approximately 9.7% from

⁴ 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.

⁵ 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, www.opradata.com, under the “Policies” tab.

2014. OPRA believes that this long-term downward trend is the result of the increasing use of trading algorithms and automated trading platforms and other fundamental changes in the securities industry, and OPRA anticipates that this trend is likely to continue.

The increase in the Professional Subscriber Device-Based Fees is consistent with OPRA's past practice of making incremental \$1.00 increases in its monthly Professional Subscriber Device-Based Fees.⁶ The increase in the Professional Subscriber Device-Based Fee – which is an increase of approximately 3.5% – will partially offset the impact on revenue of the reduction in the number of devices in 2015 as compared to 2014.⁷

The text of the amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, the OPRA website at <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 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 participants in connection with access to or use of OPRA facilities. OPRA put the change in the Professional Subscriber Device-Based Fee into effect as of January 1, 2016.

III. Solicitation of Comments

⁶ The year 2015 was an exception: for 2015, OPRA implemented an increase of \$1.50 in its Professional Subscriber Device-Based Fee, because during 2015 one of OPRA's member exchanges initiated after-hours trading, causing OPRA to incur additional expenses associated with data dissemination during expanded trading hours. Prior to 2015, OPRA implemented \$1.00/month increases in its Professional Subscriber Device-Based Fee during each of the years 2008-2014. See Securities Exchange Act Release No. File 72826 (August 12, 2014), 79 FR 48777 (August 18, 2014) (SR-OPRA-2014-06).

⁷ OPRA submitted a separate filing in which OPRA restructured and increased its "non-display use" fees in order to provide additional offset to the continuing reductions in the numbers of devices subject to OPRA's Professional Subscriber Device-Based Fees. See File No. OPRA-2015-01.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the OPRA Plan amendment is consistent with the Act.⁸

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-2015-02 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-2015-02. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the OPRA Plan amendment that are filed with the Commission, and all written communications relating to the OPRA 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

⁸ Pursuant to Rule 608(b)(3)(iii) of Regulation NMS, the Commission may summarily abrogate an immediately effective NMS Plan amendment within sixty days of its filing and require refiling and approval of the amendment 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 Securities Exchange Act of 1934. See 17 CFR 242.608(b)(3)(iii). The abrogation period for the OPRA Plan amendment has expired. Interested persons may nevertheless submit written comments on the OPRA Plan amendment.

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-2015-02 and should be submitted on or before [insert 21 days from date of publication in the Federal Register].

By the Commission.

Robert W. Errett
Deputy Secretary