

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-50973; File No. SR-OPRA-2004-06)

January 6, 2005

Options Price Reporting Authority; Order Approving an Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information to Amend Guideline 2 of the Capacity Guidelines Adopted in Accordance with the Plan

On October 19, 2004, 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 amend Guideline 2 of the Capacity Guidelines (“Guideline 2”) adopted in accordance with the Plan. Notice of the proposal was published in the Federal Register on December 9, 2004.<sup>4</sup> The Commission received no comment letters on the proposed OPRA Plan amendment. This order approves the proposal.

The first purpose of the proposed OPRA Plan amendment is to amend Guideline 2 to reduce the frequency of the capacity review cycle from a quarterly cycle to a cycle no less frequently than semi-annually. According to OPRA, based on the experience of the Independent

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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. See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981).

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. 50785 (December 2, 2004), 69 FR 71440.

System Capacity Advisor ("ISCA") and the parties to the Plan, the quarterly cycle currently required by Guideline 2 fails to take into account the amount of time needed for the complete cycle of solicitation, discussion, revision, and review of these projections to be completed.

Because of this, the ISCA suggested, and the parties to the Plan agreed, that a six-month cycle for the capacity projection and review process would be more realistic, while providing the ISCA with sufficiently current capacity projections to assure that the OPRA System would be able to meet the capacity needs of the parties as they may change from time to time.

The second purpose of the proposed amendment is to permit a party to the Plan to either increase or decrease the amount of additional capacity it is requesting once it has received the ISCA's initial cost estimates for OPRA System modifications to accommodate the capacity projections and requests of all of the parties. Currently, Guideline 2 does not contemplate that a party would be able to increase the amount of additional capacity it is requesting at this stage of the process.

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

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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.

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 experience of the ISCA and the parties to the Plan, the Commission finds that it is appropriate to extend the capacity review cycle to no less frequently than semi-annually so as to provide the ISCA and the parties sufficient time to complete their cycle of solicitation, discussion, revision and review regarding capacity projections. Moreover, the Commission believes that permitting the parties to increase their requested capacity after receiving initial costs estimates from the ISCA should help to ensure that the various parties to the Plan have the flexibility they need in projecting and planning for their capacity needs.

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act,<sup>8</sup> and Rule 11Aa3-2 thereunder,<sup>9</sup> that the proposed OPRA Plan amendment (SR-OPRA-2004-06) be, and it hereby is, approved.

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

J. Lynn Taylor  
Assistant Secretary

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

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

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