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SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-73711; File No. SR-OPRA-2013-03]

Options Price Reporting Authority; Order Approving an Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information to Amend Sections 5.4 and 7.1 of the OPRA Plan
December 1, 2014.

I. Introduction

On October 21, 2013, 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”)¹ and Rule 608 thereunder,² an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (“OPRA Plan”).³ The proposed OPRA Plan amendment would modify Sections 5.4 and 7.1 of the OPRA Plan as they relate to operations of OPRA outside of OPRA’s regular hours of operations.⁴ The

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. 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 Topaz Exchange, LLC (d/b/a ISE Gemini).

⁴ OPRA’s regular hours of operations are from 7:30 a.m. to 6:00 p.m. Eastern time. See Section 5.3 of the OPRA Plan.

proposed OPRA Plan amendment was published for comment in the Federal Register on August 18, 2014.⁵ The Commission received no comment letters in response to the Notice.

This order approves the proposed OPRA Plan amendment.

II. Description of the Proposal

The purpose of the proposed amendment is to (1) amend the OPRA Plan so that it provides for the aggregation of costs for operations of OPRA outside of its regular hours of operations (“after-hours operations”) with costs for operations of OPRA during its regular hours of operations (“regular-hours operations”); and (2) state expressly that OPRA may establish separate fees for access to OPRA data during periods of after-hours operations.⁶

Currently, the OPRA Plan provides that the costs of OPRA’s after-hour operations are to be allocated separately from the costs of OPRA’s regular-hour operations and in a somewhat different manner. The OPRA Plan currently provides that the costs of OPRA’s regular-hour operations below a specified ceiling⁷ and OPRA’s revenues from regular-hour operations are both to be allocated among 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.⁸

⁵ See Securities Exchange Act Release No. 72820 (August 12, 2014), 79 FR 48779 (“Notice”).

⁶ OPRA does not currently operate outside of its regular hours of operations. However, according to OPRA, one of its member exchanges has indicated that it is planning to initiate after-hours trading and requested that OPRA operate during the after-hours period when its market will be open for trading. The current OPRA Plan provides that the OPRA System will operate outside of its regular hours of operation at the request of any one or more of its member exchanges. See Section 5.3 of the OPRA Plan. OPRA is not proposing any changes to Section 5.3 of the OPRA Plan.

⁷ Clause 7.1(a)(iii)(2) of the OPRA Plan provides that costs above a “specified ceiling” are to be allocated in accordance with OPRA’s Capacity Guidelines. The “ceiling” is described in Guideline 7 of the Capacity Guidelines. OPRA is not proposing any changes in the allocation of costs as described in the Capacity Guidelines.

⁸ See Section 7.1 of the OPRA Plan.

The current provisions of the OPRA Plan state that, if the OPRA System operates outside of OPRA's regular hours, any costs attributable to such operation will be allocated to the exchange or exchanges that are actually operating during the after-hours period. The OPRA Plan does not make any special provision for the allocation of revenues derived from fees for access to OPRA data generated in the course of after-hours operations, and the OPRA Plan therefore provides that 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 OPRA 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 OPRA 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. As a result of the proposed change, 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.

In addition, OPRA's Fee Schedule does not currently provide specific fees for access to OPRA data during periods of after-hours operations. Therefore, OPRA is proposing to add a sentence to Section 5.4(d) of the OPRA Plan to state expressly that it may establish such fees.⁹

III. Discussion

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.¹⁰

Specifically, the Commission finds that the proposed OPRA Plan amendment is consistent with Section 11A of the Act¹¹ and Rule 608 thereunder¹² in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanisms of, a national market system. OPRA believes that the proposed amendment will better align the provisions of the OPRA Plan relating to the allocation of costs of after-hours operations with the provisions of the OPRA Plan relating to the allocation of revenues derived from after-hours trading. The Commission believes that OPRA's proposal is consistent with Section 11A of the Act¹³ and Rule 608 thereunder.¹⁴

⁹ OPRA is also proposing to make a non-substantive change to Section 5.4(d) of the OPRA Plan 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 website under the "Fees" tab.

¹⁰ 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).

¹¹ 15 U.S.C. 78k-1.

¹² 17 CFR 242.608.

¹³ 15 U.S.C. 78k-1.

¹⁴ 17 CFR 242.608.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act,¹⁵ and Rule 608 thereunder,¹⁶ that the proposed OPRA Plan amendment (SR-OPRA-2013-03) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill,
Deputy Secretary.

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¹⁵ 15 U.S.C. 78k-1.

¹⁶ 17 CFR 242.608.

¹⁷ 17 CFR 200.30-3(a)(29).