

SECURITIES AND EXCHANGE COMMISSION

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Options Price Reporting Authority; Notice of Filing of Amendment to the National Market System Plan To Update the Current Fee Structure and Eliminate the Use of Separate News Service Agreements

June 5, 1995.

Pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 25, 1995, the Options Price Reporting Authority ("OPRA")² submitted to the Commission an amendment to its National Market System Plan for the purpose of updating OPRA's fee structure and eliminating the use of separate news service agreements.³

The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

OPRA proposes to amend its vendor agreement and the related fee schedule to impose a new redistribution fee on all persons who redistribute options market information, to reflect a reduction in the level of the access charge currently payable by vendors and other persons who receive direct or indirect access to OPRA's Processor, and to eliminate indirect-assess or pass-through vendors and news services as persons subject to the access charge. In addition, OPRA proposes to eliminate the separate news service agreement. Instead, OPRA would categorize news services as vendors and would seek to have such services sign vendor agreements. Conforming changes would be made to the OPRA Plan.

OPRA has made this proposal in response to the growth in the listed options market and the changes in the

ways in which options market information is disseminated and used. Among these changes are the increased use of electronic forms of redistribution of market information from vendors and news services directly to individual investors, often on a fifteen minute delayed basis, and the expanded number of value-added intermediaries in the chain of transmission from OPRA's processor to the end users of the information.

OPRA proposes to institute a new redistribution fee. This fee would apply to persons who receive and retransmit delayed market information. The redistribution fee would not apply to historical information.⁴ OPRA's redistribution fee proposal is in response to its belief that instead of encouraging vendors to distribute current options information, the current fee structure encourages the redistribution of delayed information.

With the introduction of the new redistribution fee, OPRA proposes to eliminate the vendor and news service pass-through fee, currently charged to vendors and news services that receive options information from another vendor instead of from the OPRA Processor. In addition, in light of the added revenue expected to be realized from redistribution fees payable by vendors of delayed data, the direct access charge is proposed to be reduced from its current level to the point where the direct access charge will be less than the access charge or pass-through fee currently charged. OPRA believes that total revenue from fees charged to vendors and news services will not increase as a result of these proposed changes and, in fact, may slightly decrease during the transition period.⁵ The proposed amendment to the vendor agreement also includes some nonsubstantive, editorial changes.

In addition to the fee restructuring proposal, OPRA proposes to eliminate separate news service agreements. Instead, news services would be required to enter into vendor agreements with OPRA. OPRA proposes to eliminate these separate agreements in light of technological changes that it perceives have blurred the distinction between news services and other redistributors of market data, making it

no longer useful to treat news services as a separate category of vendor. According to OPRA, only two news services currently are parties to news service agreements, with most redistributors of options information to news media having already entered into vendor agreements in order to be able to redistribute options market data electronically to entities other than news media. OPRA believes that the current news service agreement and the vendor agreement are substantially the same and that the same fees apply to both news services and vendors. The elimination of the separate news service agreement, therefore, will allow news services and other vendors to be subject to the same agreement and the same fees.

II. Implementation of the Plan Amendment

In accordance with OPRA's existing agreements with vendors and news services, amendments to these agreements and to the fees charged thereunder require not less than 30 days advance notice. In order to assure that the required notice has been given to vendors and to provide time during which vendors and news services will be asked to sign new agreements reflecting the new fee structure, OPRA does not intend to implement this amendment until September 1, 1995, subject to Commission approval.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Commenters are asked to address whether they believe the proposed amendment 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 is in furtherance of the purposes of the Act.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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

¹ 17 CFR 240.11Aa3-2.

² OPRA is a National Market System Plan approved by the Securities and Exchange Commission ("Commission" or "SEC") pursuant to Section 11A of the Act and Rule 11Aa3-2, thereunder. Securities Exchange Act Release No. 17638 (March 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the five member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange ("AMEX"), the Chicago Board Options Exchange ("CBOE"), the New York Stock Exchange ("NYSE"), the Pacific Stock Exchange ("PSE"), and the Philadelphia Stock Exchange ("PHLX").

³ The proposed amendment was approved by OPRA in accordance with the OPRA Plan at a meeting held on April 11, 1995.

⁴ Under the proposal, information becomes "historical" upon the opening of trading in the next succeeding trading session of that same market. For example, reports of transactions completed in a trading session on Wednesday become historical reports from and after the opening of trading on the following Thursday.

⁵ The transition period reflects the time in which vendors distributing delayed information are identified and brought under contract pursuant to the proposed redistribution fee.