

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of April 18, 2005:

A closed meeting will be held on Tuesday, April 19, 2005, at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (8), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in closed session and that no earlier notice thereof was possible.

The subject matter of the closed meeting scheduled for Tuesday, April 19, 2005, will be:

Formal orders of investigations;  
Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings of an enforcement nature; and a  
Regulatory matter regarding financial institutions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: April 13, 2005.

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51514; File No. SR-OPRA-2005-01]

### 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 Clarify How the Requirements of the OPRA Plan Pertaining to Vendors Apply to Persons Who Redistribute OPRA Data Over the Internet

April 8, 2005.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> notice is hereby given that on March 30, 2005, the Options Price Reporting Authority ("OPRA")<sup>3</sup> submitted to the Securities and Exchange Commission ("Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("Plan"). The proposed amendment would issue a written policy that clarifies how the requirements of the Plan pertaining to vendors would apply to persons who redistribute OPRA data over the Internet. The Commission is publishing this notice to solicit comments from interested persons on the proposed Plan amendment.

#### I. Description and Purpose of the Amendment

The purpose of the proposed Plan amendment is to adopt a written policy that would codify prior interpretations concerning how provisions of the Plan applicable to "vendors" would apply to persons who redistribute OPRA data by means of the Internet. In order to make this policy generally available to interested persons, OPRA proposes to publish it on its Web site, <http://www.opradata.com>. Because this policy pertains to the operation and implementation of the national market system facility administered by OPRA, OPRA proposes to treat the policy as

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

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

<sup>3</sup> OPRA 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 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 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.

part of the Plan and has filed it as an amendment to the Plan pursuant to Rule 11Aa3-2 under the Act.<sup>4</sup>

The Plan generally defines a "vendor" as a person who redistributes OPRA data (*i.e.*, options last sale and quotation reports and related information) to persons outside of its own organization. Persons who act as vendors are required to enter into vendor agreements with OPRA and pay applicable access and redistribution fees. As the Internet has increasingly been used as a means of providing OPRA data to subscribers and others, questions have arisen concerning exactly who among the various types of service providers involved in Internet transmission of OPRA data would be deemed to be performing the function of a vendor, and thereby be subject to the requirements of the Plan applicable to vendors. Although OPRA has informally adopted a policy that addresses these issues and has responded to questions in accordance with that policy, OPRA has not made its policy publicly available in writing until now. By making this policy available in writing on OPRA's Web site, OPRA wishes to be able to provide useful information to interested persons and avoid having to respond to individual questions on this topic.

The policy would include the following elements:

(A) A person who redistributes OPRA data to other persons outside of its own organization would be a "vendor" under the Plan. This would include persons who utilize the Internet as the means of redistribution.

(B) A person whose only function is to maintain an Internet site, on which there is a link or framed page through which OPRA data is provided by another person who is an OPRA vendor, would not itself be treated as a vendor, if certain additional conditions are satisfied. These additional conditions would be the following: (i) The person has no other involvement in the redistribution of OPRA data; (ii) the Internet site maintained by that person clearly and prominently identifies the vendor who provides the OPRA data through the link or framed page and states that such vendor is responsible for providing the data; and (iii) either the vendor, who is identified as providing the data, controls access to the data and pays applicable usage-based fees to OPRA, or the person, who maintains the Internet site and is not a vendor, is instead a "correspondent subscriber" who has entered into a Correspondent Subscriber Agreement with the vendor and who limits access

<sup>4</sup> 17 CFR 240.11Aa3-2.