

Specifically, the Commission finds that the proposed OPRA Plan amendment is consistent with Section 11A of the Act⁸ and Rule 608 thereunder⁹ 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. The proposed change to the definition of the term Nonprofessional is designed to clarify that the term is meant to apply to persons engaged in the same type of business whether they are located in the United States or elsewhere. The Commission believes that OPRA's proposal is consistent with Section 11A of the Act¹⁰ and Rule 608 thereunder¹¹ because the proposal is designed to add clarity to OPRA's existing term and should therefore help to avoid investor confusion. In addition, the Commission notes that the proposed revisions to the term "Nonprofessional" will make the term used by OPRA consistent with the similar term used by CTA.

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,¹² and Rule 608 thereunder,¹³ that the proposed OPRA Plan amendment (SR-OPRA-2014-03) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Kevin M. O'Neill,
Deputy Secretary.

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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")

impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78k-1.

⁹ 17 CFR 242.608.

¹⁰ 15 U.S.C. 78k-1.

¹¹ 17 CFR 242.608.

¹² 15 U.S.C. 78k-1.

¹³ 17 CFR 242.608.

¹⁴ 17 CFR 200.30-3(a)(29).

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 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

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 SE.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.

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.

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

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

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.

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

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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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73705; File No. SR-NASDAQ-2014-118]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASDAQ Rule 7001(c)

December 1, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 26, 2014, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to modify NASDAQ Rule 7001(c) concerning market maker participant identifier³ ("MPID") fees. The Exchange proposes to implement the proposed rule change on December 1, 2014.

The text of the proposed rule change is available at nasdaq.cchwallstreet.com, at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ When applied to a market maker, sometimes referred to as a "maker participant identifier."

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to amend the fees assessed under Rule 7001(c) for MPIDs. MPIDs are special numerical identifiers assigned to certain broker-dealers to identify the firms' transaction and quoting activity. NASDAQ administers the assignment of MPIDs, which may be requested by a broker-dealer for use on NASDAQ systems, reporting to Financial Industry Regulatory Authority ("FINRA"), or a combination of the two. NASDAQ member firms are provided with a Primary MPID upon gaining NASDAQ membership, but may also request additional MPIDs. These additional MPIDs are called Supplemental MPIDs and may be used by member firms to separate orders or quotes entered into the NASDAQ system for affiliates, segregated business units or trading desks, or sponsored access firms. Member firms also may use Supplemental MPIDs exclusively for reporting information to facilities of the FINRA, such as the FINRA/NASDAQ Trade Reporting Facility.

Under Rule 7001(c), NASDAQ provides a Primary MPID at no cost, and Supplemental MPIDs for a fee of \$1,000 per month, per additional identifier. The Exchange also provides Supplemental MPIDs at no cost if they are used exclusively for reporting information to facilities of FINRA. The Exchange has not modified the fees assessed for MPIDs since adopting Rule 7001(c) in July 2010.⁴ NASDAQ is proposing to eliminate the distinction between Primary and Supplemental MPIDs and assess a fee of \$500 per month, per identifier. As is currently the case, NASDAQ will not assess a fee for MPIDs used exclusively for reporting to the facilities of FINRA. A consequence of the proposed change is that some member firms will experience an overall fee increase. Specifically, a member firm that currently has only one MPID (a "Primary MPID" under the current rule) would now have to pay \$500 per month for the MPID under the proposed change, whereas that member firm pays nothing under the current rule. A member firm that has two MPIDs currently, none of which are [sic] used exclusively for reporting to the facilities of FINRA, would experience no change in the total monthly fee assessed for its

⁴ See Securities Exchange Act Release No. 62564 (July 23, 2010), 75 FR 44830 (July 29, 2010) (SR-NASDAQ-2010-089).

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 Web site 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.

¹⁵ 15 U.S.C. 78k-1.

¹⁶ 17 CFR 242.608.

¹⁷ 17 CFR 200.30-3(a)(29).