Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: January 17, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01100 Filed 1–19–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the U.S. Securities and Exchange Commission will hold an Open Meeting on Wednesday, January 24, 2024, at 10:00 a.m. (ET).

PLACE: The meeting will be webcast on the Commission's website at *www.sec.gov.*

STATUS: This meeting will begin at 10:00 a.m. (ET) and will be open to the public via webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED:

1. The Commission will consider whether to adopt new rules and amendments to enhance disclosures and provide additional investor protections in initial public offerings by special purpose acquisition companies (SPACs) and in subsequent business combination transactions between SPACs and target companies (de-SPAC transactions), and to address investor protection concerns more broadly with respect to shell companies.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: January 17, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–01207 Filed 1–18–24; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, January 25, 2024.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: 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 also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: January 18, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–01225 Filed 1–18–24; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99345; File No. 4–820]

Options Price Reporting Authority; Notice of Filing of Proposed Amendment To Modify Section 5.2(c)(iii) of the OPRA Plan Relating to Dissemination of Exchange Proprietary Data Information

January 16, 2024.

Pursuant to section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on November 8, 2023,[3] the Cboe BZX Exchange, Inc. (''BZX Options''), Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options'') and Cboe EDGX Exchange, Inc. (''EDGX Options'') (collectively, the ''Sponsors'' or ''Cboe'') filed with the Securities and Exchange Commission (''Commission'') a proposed amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[4]

The Sponsors state that they have filed the Amendment pursuant to Rule 608(a)(1) under Regulation NMS.[5] Rule 608(a)(1) provides:

> Any two or more self-regulatory organizations, acting jointly, . . . may propose an amendment to an effective national market system plan (''proposed amendment'') by submitting the text of the . . . amendment to the Commission by email, together with a statement of the purpose of such . . . amendment and, to the extent applicable, the documents and information required by paragraphs (a)(4) and (5) of this section.[6]

Section 10.3 (Amendments) of the OPRA Plan, by contrast, provides that the plan ''may be amended from time to time when authorized by the affirmative vote of all of the Members, subject to the approval of the Securities and Exchange Commission,'' [7] and the affirmative vote of all of the Members of the OPRA Plan has not been obtained on the proposed amendment.

The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment. Set forth below in Section I, which is being published verbatim as filed by the Sponsors, is the statement of the purpose and summary of the Amendment, along with information pursuant to Rule 608(a) under the Act.[8]

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[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] *See* Letter from Corrine Klott, Cboe, to Vanessa A. Countryman, Commission (Nov. 8, 2023) (''Transmittal Letter'').

[4] 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 (Mar. 18, 1981), 22 SEC. Docket 484 (Mar. 31, 1981). The full text of the OPRA Plan and a list of its participants are available at *https://www.opraplan.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.

[5] 17 CFR 242.608(a)(1).

[6] *Id.*

[7] *See* Limited Liability Company Agreement of Options Price Reporting Authority, LLC, Art X, sec. 10.3.

[8] 17 CFR 242.801(a).

I. Requirements Pursuant to Rule 608(a)

1. Statement of Purpose

Executive Summary

Access to high-quality, real-time market data is essential for participation in the financial markets. For this reason, market participants, regulators, and data providers are constantly working to strike a balance between data quality and data expense. Cboe proposes to amend the OPRA Plan in a manner in which it believes will better enable all OPRA Members to expand the amount of proprietary data available to users and consumers of such data, as well as spur innovation and competition for market data. In particular, Cboe believes that the proposed amendments would result in broadening the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The proposed amendment also will promote transparency by facilitating the dissemination of market data more widely through additional distribution channels, which will enable investors to better monitor trading activity on the U.S. options exchanges, support more informed trading and investment decisions, and thereby serve the public interest. To be clear, Cboe firmly believes that these amendments are simply clarifications of what the plain text of the OPRA Plan currently says. But in light of disagreement over the meaning of the current plan, Cboe seeks to make explicit the meaning of the OPRA Plan.

In particular, the Exchange proposes to amend Section 5.2(c)(iii) of the OPRA Plan (''Equivalent Access Provision'') which currently provides that:

(iii) A Member may disseminate its Proprietary Information pursuant to subparagraph (ii) of this paragraph (c) provided that:

(A) such dissemination is limited to other Members and to persons who also have equivalent access to consolidated Options Information disseminated by OPRA for the same classes or series of options that are included in the Proprietary Information. For purposes of this clause (A), ''consolidated Options Information'' means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA, and access to consolidated Options Information and access to Proprietary Information are deemed ''equivalent'' if both kinds of information are equally accessible on the same terminal or work station; and

(B) a Member may not disseminate its Proprietary Information on any more timely basis than the same information is furnished to the OPRA System for inclusion in OPRA's consolidated dissemination of Options Information.

Background

On July 20, 2001, the Commission approved an amendment to the OPRA Plan which allowed exchanges to provide proprietary data to their members under certain conditions, including a requirement that members have ''equivalent access'' to consolidated options information.[9] Prior to that amendment, OPRA was the exclusive provider of information regarding options quotes and transactions.[10] The Commission noted that the proposed amendments to the OPRA Plan (*i.e.,* adoption of the Equivalent Access Provision) were intended to improve competition.[11] On November 21, 2003, the SEC approved amendments to a number of provisions of the OPRA Plan, including an amendment expanding the scope of who could receive proprietary data to include other ''persons'' in addition to exchange members.[12] Non-substantive changes were made to Section 5.2(c)(iii) when OPRA was reorganized as a limited liability company effective on January 1, 2010, but the substance of the Equivalent Access Provision has otherwise been unchanged since 2003.

Cboe believes that, based on its plain language, subparagraph (A) of the Equivalent Access Provision is satisfied where a recipient of an exchange proprietary data product also is simultaneously authorized and entitled to receive OPRA data in one of the ways that OPRA makes its data available; that is, by maintaining a streaming subscription to the OPRA feed *or* having the ability to query OPRA data on a usage-basis,[13] thereby preserving the Commission's intent to improve competition through the 2001 amendments to the OPRA Plan.

Cboe strongly believes there are several bases that support its reading of the current subparagraph (A) of the Equivalent Access Provision including: the plain reading and unambiguous nature of the language in Equivalent Access Provision; the nature of the current OPRA audit protocols to ensure compliance with Equivalent Access Provision; the language (or lack thereof) included in OPRA market data agreements, policies and fees schedules relating to Equivalent Access and public representations made by other OPRA members since the adoption of the provision in 2001 that are inconsistent with a requirement that a person receiving a proprietary data feed also receive streaming real-time data from OPRA.[14]

[9] *See* Securities Exchange Act Release No. 44580 (July 20, 2001), 66 FR 39218 (July 27, 2001) (SR–OPRA–2001–02).

[10] In 2000 and 2001, the Commission granted ISE and Cboe Options temporary exemptions from the exclusivity requirement. Those exemptions were granted pursuant to Exchange Act Rule 11Aa3–2(f), 17 CFR 240.11Aa3–2(f). *See* letters from Robert L.D. Colby, Deputy Director, Division of Market Regulation, Commission, to Michael J. Simon, Senior Vice President and General Counsel, ISE, dated May 25, 2000 and to Edward J. Joyce, President and Chief Executive Officer, CBOE, dated November 6, 2000. These letters, originally drafted to expire on May 26, 2001, were extended until September 1, 2002. *See* letters from Robert L.D. Colby, Deputy Director, Division of Market Regulation, Commission, to Michael J. Simon, Senior Vice President and General Counsel, ISE, dated May 24, 2001 and to Edward J. Joyce, President and Chief Executive Officer, CBOE, dated May 24, 2001.

[11] *Supra* note [9].

[12] *See* OPRA; Notice of Filing and Order Approving on a Temporary Basis not to Exceed 120 Days a Proposed Amendment to the Plan for Reporting of Consol. Options Last Sale Info. and Amendments No. 1 and 2 Thereto to Revise the Manner in Which the OPRA Engages in Capacity Planning and Allocates its Available Systems Capacity Among the Parties to the Plan, Release No. 34–48822, 2003 WL 22767596[.]

[13] The ''Basic Service'' ''quote packets'' or ''options chains'' made available by OPRA pursuant to the ''Usage-based Vendor Fee'' option in OPRA's Fee Schedule meet the definition of ''consolidated Options Information.'' That ''Basic Service'' includes ''all last sale and quotations information pertaining to equity options and index options, including foreign currency index options.'' *See* OPRA Fee Schedule at 1 and n.1. In addition, the Fee Schedule also states that a ''quote packet'' supplied in response to a usage-based query ''consists of any one or more of the following values: last sale, bid/ask, and related market data for a single series of options or a related index'' and that an ''options chain'' supplied in response to a usage-based query ''consists of last sale, bid/ask, and related market data for up to all series of put and call options on the same underlying security or index.'' Therefore, a person who has access to OPRA's usage-based data service on his or her terminal or work station and can obtain quote packets and options chains has, by definition, equivalent access to ''consolidated Options Information'' because that person will have access to ''Last Sale Reports,'' ''Quotation Information,'' and the ''BBO.''

[14] *See* Securities Exchange Act Release No. 32675 (June 30, 2009), 74 FR 32675 (July 8, 2009) (SR–Phlx–2009–54), in which Nasdaq PHLX, LLC (''PHLX'') states: ''[T]he TOPO data feed offers a competitive, lower-priced *alternative to the consolidated data OPRA feed* for users and situations where consolidated data is unnecessary . . . Additionally, to the extent users can substitute the lower-priced TOPO data for the higher-priced consolidated data feed, those users will have the opportunity to pass the savings on to investors in the form of lower overall trading costs.'' (emphasis added); and *see* Securities Exchange Act Release No. 68576 (January 3, 2013), 78 FR 1886 (January 9, 2013) (SRndash;Phlxndash;2012–145), in which two years later PHLX states ''First, TOPO, TOPO Plus Orders, PHLX Orders and PHLX Depth of Market data feed offer a comprehensive, *competitive alternative to the consolidated data OPRA feed* for users and situations where consolidated data is unnecessary'' (emphasis added). *See also* Securities Exchange Act Release No. 79556 (December 14, 2016), 81 FR 92935 (December 20, 2016) (SR–NASDAQ–2016–167), in which The Nasdaq Stock Market LLC stated: ''[m]any customers that obtain information from OPRA do not also purchase ITTO and BONO, but in cases where customers buy both products, *they*

In March 2023 however, other OPRA Members took a different view and asserted that the Equivalent Access Provision can only be satisfied where a recipient of an exchange proprietary data feed also maintains a streaming subscription to the full OPRA feed (*i.e.,* the ability to query OPRA data on a usage-basis would not be deemed to satisfy the Equivalent Access Provision). Following months of deliberation between OPRA members, OPRA retained counsel, who ultimately provided his interpretation that the Equivalent Access Provision requires a user receiving a streaming, real-time exchange proprietary data product to also receive the full feed of streaming, real-time data from OPRA. On September 6, 2023, the OPRA Management Committee, by majority vote, determined to adopt counsel's interpretation.[15] Cboe believes that the interpretation adopted by the OPRA Management Committee on September 6, 2023 is legally and factually flawed and in opposition to the Commission's intent of the 2001 OPRA amendment. As such, Cboe has decided to propose an amendment that furthers the policy goals stated above by amending the Equivalent Access Provision so it provides that (1) access to OPRA data on a usage-basis will also satisfy the Equivalent Access Provision and (2) impose certain display requirements for both any proprietary market data and consolidated options information.

Proposal

Usage-Based Data Service

Cboe proposes to modify Section 5.2(c)(iii)(A) of the OPRA Plan to clarify that access to consolidated Options Information and access to Proprietary Information are deemed ''equivalent'' if ''Proprietary Information'' and ''consolidated Options Information'' (as those terms are defined in the OPRA Plan), are equally accessible on the same terminal or work station, regardless of whether the OPRA data is disseminated on a streaming or per usage basis. Specifically, Cboe proposes to revise Section 5.2(c)(iii)(A) of the OPRA Plan to replace the sentence the following sentence:

> For purposes of this clause (A), ''consolidated Options Information'' means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA, and access to consolidated Options Information and access to Proprietary Information are deemed ''equivalent'' if both kinds of information are equally accessible on the same terminal or work station.

with the following sentence:

> For purposes of this clause (A), ''consolidated Options Information'' means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA, and access to consolidated Options Information and access to Proprietary Information are deemed ''equivalent'' if Proprietary Information and consolidated Options Information, whether disseminated on a streaming- or per usage-basis, are equally accessible on the same terminal or work station.

The new language would clarify that the Equivalent Access Provision is satisfied if a recipient of an exchange proprietary data product also is simultaneously authorized and entitled to receive OPRA data in one of the ways that OPRA makes its data available; that is, by maintaining a streaming subscription to the OPRA feed *or* having the ability to query OPRA data on a usage-basis.

The current Equivalent Access Provision of the OPRA Plan, as interpreted by OPRA, requires that vendors purchase a streaming subscription to the full OPRA feed alongside any exchange proprietary data product. That requirement could be cost-prohibitive or technologically unfeasible when considering the growing and significant bandwidth requirements associated with the full streaming OPRA data feed.[16] This is especially true where vendors or retail brokers are providing such data to individual retail investors who are more likely to be low volume users of market data and do not otherwise have the same best execution obligations as professional users. For such users, query-based access to OPRA data may be more suitable. Moreover, the current interpretation of the Equal Access Provision could have the practical effect of denying choice for individual data subscribers, as compliance with it could be cost-prohibitive for the vendors or retail brokers that support them, effectively leaving OPRA's feed as the only data source for options market participants—even in scenarios where a market participant decides that it does not need consolidated market data for its purposes. Such a result ultimately denies choice for individual data subscribers, which is antithetical to the SEC's longstanding view on competition.

Indeed, when the National Association of Securities Dealers, Inc. (''NASD'') first established a per-query fee structure for U.S. equities, it noted its purpose was ''to provide retail customers with a cost-effective alternative to calling their brokers for current market information.'' [17] As NASD explained, retail investors might not be interested in subscribing to a costly service offered by a commercial vendor which frequently might include analytic information, ticker displays, and dynamically-updated quotation and transaction information.[18] NASD therefore reasoned that the adoption of a query-based fee structure would provide individual investors a better ability to monitor the value of a portfolio, track intra-day activity in a given stock to facilitate an investment decision, or observe a market trend based on periodic queries for the current level of a popular stock index. When approving the proposed fee structure, the Commission similarly acknowledged:

> [the proposed per-query fee structure] and related fee are designed to accommodate the information needs of individual investors, particularly small investors who do not require the breadth of market data and analytic information that institutional investors and market makers typically require. . . . this service will allow firms and vendors to provide individual investors cost-effective access to market data without requiring users to acquire expensive hardware. . . . The NASD's experience is that [subscriber fees and vendor suppled equipment] costs tend to discourage subscription by low-volume users. . . The Commission believes that the $.01/query fee is an equitable allocation of a reasonable fee and that it will be affordable to individual investors. The Commission, therefore, finds

may shift the extent to which they purchase one or the other based on price changes. OPRA constrains the price of ITTO and BONO because no purchaser would pay an excessive price for these products when similar data is also available from OPRA.'' (emphasis added). *See also* NYSE Technology FAQ and Best Practices: Options, Section 6.3 at *https://www.nyse.com/publicdocs/nyse/NYSE_Options_Technology_FAQ.pdf* which is a publicly available document posted by OPRA Members NYSE American LLC and NYSE Arca, Inc. (collectively ''NYSE'') that includes statements inconsistent with the adopted interpretation. Particularly, in a section titled ''How do firms receive proprietary market data'' NYSE states in relevant part: ''[I]in addition, the Exchanges *recommend* that firms utilizing proprietary market data feeds maintain a connection to OPRA, and *have the ability to switch between the proprietary market data feeds and the OPRA feed,* in the event that one or the other fails'' (emphasis added).

[15] BZX Options, C2 Options, Cboe Options, and EDGX Options voted to reject this interpretation.

[16] *See 64e8f2c76de012371925ee11_OPRA_Data_Dissemination_Expansion_from_48_to_96-Line_Multicast_Network_Industry_Test_4.pdf* (website-*files.com*). *See also 64ada60d17c52b49eb5ee42c_OPRA_96-Line_Expansion_Frequently Asked Questions v1.10_071023.pdf* (website-*files.com*).

[17] *See* Securities Exchange Act Release No. 35393 (February 17, 1995), 60 FR 10625 (February 27, 1995) (SR–NASD–95–7).

[18] *Id.*

that the proposal is consistent with the section 15A(b)(5) of the Act.[19]

Although, the Commission's finding related to US equities pricing data, the underlying rationale applies with equal force to the options industry. OPRA's current interpretation of the Equal Access provision is directly at odds with that SEC statement—instead of facilitating cost effective access that will ''accommodate the information needs of individual investors,'' it will disfavor small investors that do not require—and may be unable to pay for or technologically accommodate—a full feed of streaming, real-time data from OPRA.

In addition, when OPRA amended its rules to make usage based access permanently available following a pilot, OPRA stated that ''the availability of these alternative [usage-based] fees has not had *any significant negative impact on OPRA's overall revenues* or on the fair allocation of OPRA's basic service fees to persons who have access to options market information.'' [20] Therefore, the ability to choose the manner in which OPRA data is received (*i.e.,* either via a streaming subscription or on a query basis) to satisfy the Equivalent Access Provision will not harm OPRA's financial position, while at the same time providing the possibility of lower overall costs for US options market data users and permitting them to better evaluate the cost-to-value ratio of obtaining different types of data. In sum, Cboe believes that its proposal will further access to market data generally and will equip investors, including retail investors, with the ability to make informed investment decisions.

Moreover, under Cboe's proposal, all investors receiving exchange proprietary data will continue to have access to OPRA data should they so choose. The only difference is that the proposed amendment will provide subscribers with flexibility to choose the manner in which they are able to view the data. More specifically, since OPRA's usage-based data service allows market participants to obtain quote packets and options chains on their terminal or work station, by definition, that service will still provide equivalent access to ''consolidated Options Information'' because that market participants will have access to ''Last Sale Reports,'' ''Quotation Information,'' and the ''BBO'', as required under the current Equivalent Access Provision.

Cboe also believes absent its proposed amendment, there could be discriminatory application of fees between market participants who choose to subscribe to exchange proprietary data products and those who do not. That discriminatory treatment arises because, absent the proposed amendment, only those market participants who do *not* also subscribe to exchange proprietary market data products may avail themselves of OPRA's potentially more cost-effective usage-based data service. That scenario only serves to penalize those market participants who choose to subscribe to exchange proprietary data products because such participants (unlike those who do not subscribe to proprietary market data products) will be required to also subscribe to, and pay for, the more expensive full streaming OPRA data feed regardless of their needs. As noted, in some cases, retail investors (or the retail brokers that support them) may not be able to afford or technologically process the large size of the full streaming OPRA data; effectively *precluding* this subset of retail investors from accessing proprietary options data at all.

Finally, Cboe believes its proposal fosters pricing competition because it provides users with more choices about what OPRA data to subscribe to, and what, if any, exchange data to subscribe to. That increased choice reduces that possibility that any one market data provider, including OPRA, could charge non-competitive prices for its data. In other words, that proposed amendment would result in a situation where all exchanges, as well as OPRA, would have an incentive to price their market data products based on the value relative to that of other markets, as they would otherwise risk that market participants would not subscribe to their products. As such, exchanges would have to compete on the price or quality of their data (*e.g.,* by offering consistently better quotes) to generate potential subscriber interest in their data. This added incentive to compete, in turn, could enhance liquidity and have a beneficial effect on intermarket competition.

Display Requirement

Cboe also proposes to add a new paragraph to the Equivalent Access Provision: proposed paragraph (C) of Section 5.2(c)(iii) of the OPRA Plan. Proposed paragraph (C) would include two requirements. First, Cboe proposes to require that dissemination of consolidated Options Information for the same classes or series of options that are included in the Proprietary Information must be displayed in a context in which a trading or order-routing decision can be implemented (*i.e.,* the point of order entry or modification). Accordingly, Cboe proposes to add the following requirement: ''dissemination of consolidated Options Information for the same classes or series of options that are included in the Proprietary Information must be displayed in a context in which a trading or order-routing decision can be implemented (*i.e.,* the point of order entry or modification).'' Second, Cboe proposes that consolidated Options Information must also be provided if a registered representative of a broker-dealer provides a quotation to a customer that can be used to assess the current market or the quality of trade execution. Therefore, Cboe proposes to include in proposed paragraph (C) of Section 5.2(c)(iii) the following requirement: that ''Consolidated Options Information must also be provided if a registered representative of a broker- dealer provides a quotation to a customer that can be used to assess the current market or the quality of trade execution.''

Like the Vendor Display Rule [21] that applies to equities market data, Cboe proposes to amend the Equivalent Access Provision to also require a display of consolidated Options Information when it is most needed—when a trading or order-routing decision could be implemented. Additionally, Cboe proposes to clarify in the text of new Section 5.2(c)(iii)(C) of the OPRA Plan that the time when a trading or order-routing decision means at ''the point of order entry or modification.'' As is the case under the Vendor Display Rule, Cboe is not proposing that a display of consolidated data be required when market data is being provided on a purely informational website that does not offer any trading or order-routing capability.

Cboe also proposes to make clear that OPRA ''consolidated Options Information'' must also be provided if a registered representative of a broker-dealer provides a quotation to a customer that can be used to assess the current market or the quality of trade execution. The foregoing requirement codifies guidance provided by the SEC in connection with the Vendor Display Rule.[22]

[19] *See* Securities Exchange Act Release No. 35721 (May 16, 1995), 60 FR 98 (May 22, 1995) (SR–NASD–95–7).

[20] *See* Securities Exchange Act Release No. 37686 (September 16, 1996), 61 FR 49801 (September 23, 1996) (emphasis added).

[21] 17 CFR 242.603.

[22] *See* Denial of No-Action Request under Rule 603(c) of Regulation NMS, from Stephen Luparello, Director, Division of Trading and Markets, SEC, to Eric Swanson, EVP, General Counsel & Secretary

When adopting the Vendor Display Rule, the Commission expressed its view that the NBBO continues to provide a great deal of value for retail investors in assessing the current market for small trades and the quality of execution of such trades.[23] Subsequently, in a 2015 Denial of No-Action Request under Rule 603(c) of Regulation NMS, SEC staff stated their belief that when a registered representative of a broker-dealer provides a quotation to a customer, it is typically done in a context where the customer uses that information to make a trading decision (including a decision regarding whether or not to trade, or the terms of the trade such as a limit price).[24] The SEC therefore stated in its Denial of No-Action Request that it believed that a quotation provided by a registered representative to a customer, which the customer can use to assess the current market or the quality of trade execution, is provided ''in a context in which a trading or order-routing decision can be implemented'' for purposes of the Vendor Display Rule.

The proposed adoption of new subparagraph (C) under Section 5.2(c)(iii) of the OPRA Plan is designed to ensure continuing access to real-time ''consolidated Options Information,'' a long-standing requirement in the securities industry to display consolidated market data at the times when it is most needed. With the recent growth in US options trading, and a large portion of that growth coming from retail investors, it is imperative to continue to empower those investors with cost-effective U.S. options pricing information, along with the ability to choose the manner in which they access such data in accordance with their needs. Cboe believes its proposed display requirements, coupled with the proposal to clarify that OPRA's usage-based data service satisfies the Equivalent Access Provision, will achieve that objective and therefore meets the standard of being appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and removes impediments to, and perfects the mechanism of, a national market system.[25]

BATS, dated July 22, 2015. The response letter from the staff of the SEC's Division of Trading and Markets is available on the SEC's website.

[23] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37567 (June 29, 2005) (''Regulation NMS Adopting Release'').

[24] *Supra* note [21].

[25] 17 CFR 242.608(b)(2).

2. Text of Amendment

Cboe proposes to modify Section 5.2(c)(iii) of the OPRA Plan. The existing OPRA Plan is available on the OPRA website, *www.opraplan.com,* under the ''Document Library'' tab. The amendments that Cboe is proposing are in attached Exhibit A.

3. Manner of Implementation of Amendment

The proposed amendment will be incorporated into the OPRA Plan following Commission approval of the amendment pursuant to Rule 608(b)(1) and (b)(2) of Regulation NMS.

4. Phases of Development and Implementation

Not applicable.

5. Impact on Competition

Cboe believes that the proposed amendment will impose no burdens on competition that are not justified in light of the purposes of the Act. Rather, for the reasons discussed more fully above, Cboe believes the proposed amendment furthers competition and incorporates what Cboe believes to be the historical interpretation of the Equivalent Access Provision by many market participants across the industry. The proposal to clarify that OPRA's usage-based data services satisfies the Equivalent Access Provision, coupled with the proposed display requirements. would provide investors, particularly retail investors and the retail brokers that support them, with cost- effective U.S. options pricing information, along with the ability to choose the manner in which they access such data in accordance with their needs. Cboe believes that its proposal will further access to market data generally and will equip investors, including retail investors, with the ability to make informed investment decisions.

In particular, Cboe believes that the proposed amendments to the OPRA Plan would avoid an interpretation that would limit access to valuable options market data by imposing a cost prohibitive and/or technologically unfeasible requirement on investors, particularly low volume users like individual retail investors. The proposal also will provide the possibility of lower overall costs for US options market data users and permitting them to better evaluate the cost-to-value ratio of obtaining different types of data. Moreover, the proposed amendment would avoid rendering exchange proprietary market data products redundant, effectively leaving OPRA's feed as the only data source for options market participants such as retail investors. Furthermore, Cboe does not believe that the ability to choose the manner in which OPRA data is received (*i.e.,* either via a streaming subscription or on a query basis) to satisfy the Equivalent Access Provision would harm OPRA's financial position, and therefore would not have an adverse effect on consolidated market data for the options industry.

6. Written Understandings or Agreements Among Plan Members

Not applicable.

7. Approval of Proposed Amendment

Not applicable.

8. Exhibits

Proposed amendments to the OPRA Plan set forth in Exhibit A.

9. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

10. Terms and Conditions of Access

Not applicable.

11. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

12. Method and Frequency of Processor Evaluation

Not applicable.

13. Dispute Resolution

The Plan does not include provisions regarding resolution of disputes between or among the Members.

II. Proposed Revisions to OPRA Plan (Exhibit A to the Amendment)

Additions *italicized;* deletions [bracketed]

Limited Liability Company Agreement of Options Price Reporting Authority, LLC a Delaware Limited Liability Company

* * * * *

Section 5.2. Collection and Dissemination of Options Last Sale Reports and Quotation Information.

* * * * *

(c) *Dissemination of Last Sale Reports, Quotation Information and Other Information.*

* * * * *

(iii) A Member may disseminate its Proprietary Information pursuant to subparagraph (ii) of this paragraph (c) provided that:

(A) such dissemination is limited to other Members and to persons who also have equivalent access to consolidated Options Information disseminated by OPRA for the same classes or series of options that are included in the Proprietary Information. For

purposes of this clause (A), ''consolidated Options Information'' means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA, and access to consolidated Options Information and access to Proprietary Information are deemed ''equivalent'' if *Proprietary Information and consolidated Options Information, whether disseminated on a streaming- or per usage-basis,* [both kinds of information] are equally accessible on the same terminal or work station; [and]

(B) a Member may not disseminate its Proprietary Information on any more timely basis than the same information is furnished to the OPRA System for inclusion in OPRA's consolidated dissemination of Options Information;[.] *and*

(C) dissemination of consolidated Options Information for the same classes or series of options that are included in the Proprietary Information must be displayed in a context in which a trading or order-routing decision can be implemented (i.e., the point of order entry or modification). Consolidated Options Information must also be provided if a registered representative of a broker-dealer provides a quotation to a customer that can be used to assess the current market or the quality of trade execution.

* * * * *

III. Solicitation of Comments

The Commission seeks comment on the Amendment. Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether 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 in furtherance of the purposes of the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number 4–820 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number 4–820. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Sponsors. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number 4–820 and should be submitted on or before February 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01071 Filed 1–19–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99351; File No. SR–FINRA–2024–001]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 3240 (Borrowing From or Lending to Customers)

January 16, 2024.

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 January 2, 2024, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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 Substance of the Proposed Rule Change

FINRA is proposing to amend Rule 3240 (Borrowing From or Lending to Customers) to strengthen the general prohibition against borrowing and lending arrangements, narrow some of the existing exceptions to that general prohibition, modernize the immediate family exception, and enhance the requirements for giving notice to members and obtaining members' approval of such arrangements.

The text of the proposed rule change is available on FINRA's website at *https://www.finra.org,* at the principal office of FINRA 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, FINRA 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 these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Background

Rule 3240 generally prohibits, with exceptions, registered persons from borrowing money from or lending money to their customers. The rule has five tailored exceptions, available only when the registered person's member firm has written procedures allowing the borrowing and lending of money between such registered persons and customers of the member, the borrowing or lending arrangements meet the conditions in one of the exceptions[3] and, when required, the registered person notifies the member of a borrowing or lending arrangement, prior to entering into such arrangement, and

[26] 17 CFR 200.30–3(a)(85).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Rule 3240(a)(2)(A) (the ''immediate family exception''); Rule 3240(a)(2)(B) (the ''financial institution exception''); Rule 3240(a)(2)(C) (the ''registered persons exception''); Rule 3240(a)(2)(D) (the ''personal relationship exception''); Rule 3240(a)(2)(E) (the ''business relationship exception'').