

passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund, or its respective Master Fund, to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, or its respective Master Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund, or its respective Master Fund, in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund, or its respective Master Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund, or its respective Master Fund, in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund, or its respective Master Fund, will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds

in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund, or its respective Master Fund, will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (i) the Fund, or its respective Master Fund, acquires securities of another investment

company pursuant to exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Fund acquires securities of the Master Fund pursuant to the Master-Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77585; File No. SR-OPRA-2015-02]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Amend the Professional Subscriber Device-Based Fees Set Forth in OPRA's Fee Schedule

April 12, 2016.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")¹ and Rule 608 thereunder,² notice is hereby given that on September 22, 2015, the Options Price Reporting Authority ("OPRA") submitted to the Securities and Exchange Commission ("Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan").³ Effective January 1, 2016, the OPRA Plan Amendment established a new Professional Subscriber Device-Based Fee. 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 (formerly Rule 11Aa3-2). 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 fourteen participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, EDGX Exchange, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, NYSE MKT LLC, and NYSE Arca, Inc.

Commission is publishing this notice to provide interested persons an opportunity to submit written comments on the OPRA Plan amendment.

I. Description and Purpose of the Plan Amendment

The OPRA Plan amendment revised the OPRA Fee Schedule to establish OPRA's Professional Subscriber Device-Based Fee and made conforming changes in OPRA's Enterprise Rate Professional Subscriber Fee. OPRA's Enterprise Rate Professional Subscriber Fee is available to those Professional Subscribers that elect that rate in place of the regular OPRA device-based fees.⁴

Specifically, effective January 1, 2016, the OPRA Plan Amendment: increased the current \$28.50 monthly per device fee by \$1.00; increased the Enterprise Rate, from a monthly fee of \$28.50 times the number of a Professional Subscriber's U.S.-based registered representatives, to a monthly fee of \$29.50 times the number of the Subscriber's U.S.-based registered representatives; and made conforming changes to the minimum monthly fee under the Enterprise Rate. "Professional Subscribers" are persons who subscribe to OPRA data, do not qualify for the reduced fees charged to "Nonprofessional Subscribers," and do not redistribute the OPRA data to third parties. OPRA permits the counting of "User IDs" as a surrogate for counting "devices" for purposes of its Professional Subscriber Device-based Fees.⁵

The number of devices reported to OPRA as subject to Professional Subscriber Device-Based Fees has been steadily trending downwards over many years. In 2008, OPRA received device-based fees, including enterprise fees, with respect to approximately 210,500 devices. In 2014, OPRA received device-based fees, including enterprise fees, with respect to approximately 148,400 devices. OPRA was receiving device-based fees in the third calendar quarter of 2015 with respect to approximately 134,000 devices—already a reduction of approximately 9.7% from 2014. OPRA believes that this long-term downward trend is the result of the increasing use of trading algorithms and automated trading platforms and other

⁴ OPRA's Enterprise Rate is based on the number of a Professional Subscriber's U.S. registered representatives and independent investment advisers who contract with the Subscriber to provide advisory services to the Subscriber's customers.

⁵ See footnote 2 in the OPRA Fee Schedule and OPRA's "Policies with respect to Device-based Fees," which are available on the OPRA Web site, www.opradata.com, under the "Policies" tab.

fundamental changes in the securities industry, and OPRA anticipates that this trend is likely to continue.

The increase in the Professional Subscriber Device-Based Fees is consistent with OPRA's past practice of making incremental \$1.00 increases in its monthly Professional Subscriber Device-Based Fees.⁶ The increase in the Professional Subscriber Device-Based Fee—which is an increase of approximately 3.5%—will partially offset the impact on revenue of the reduction in the number of devices in 2015 as compared to 2014.⁷

The text of the amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, the OPRA Web site at <http://opradata.com>, and on the Commission's Web site at www.sec.gov.

II. Implementation of the OPRA Plan Amendment

Pursuant to paragraph (b)(3)(i) of Rule 608 of Regulation NMS under the Act, OPRA designated this amendment as establishing or changing fees or other charges collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities. OPRA put the change in the Professional Subscriber Device-Based Fee into effect as of January 1, 2016.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the OPRA Plan amendment is consistent with the Act.⁸

⁶ The year 2015 was an exception: for 2015, OPRA implemented an increase of \$1.50 in its Professional Subscriber Device-Based Fee, because during 2015 one of OPRA's member exchanges initiated after-hours trading, causing OPRA to incur additional expenses associated with data dissemination during expanded trading hours. Prior to 2015, OPRA implemented \$1.00/month increases in its Professional Subscriber Device-Based Fee during each of the years 2008–2014. See Securities Exchange Act Release No. File 72826 (August 12, 2014), 79 FR 48777 (August 18, 2014) (SR–OPRA–2014–06).

⁷ OPRA submitted a separate filing in which OPRA restructured and increased its "non-display use" fees in order to provide additional offset to the continuing reductions in the numbers of devices subject to OPRA's Professional Subscriber Device-Based Fees. See File No. OPRA–2015–01.

⁸ Pursuant to Rule 608(b)(3)(iii) of Regulation NMS, the Commission may summarily abrogate an immediately effective NMS Plan amendment within sixty days of its filing and require refiling and approval of the amendment if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or 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 Securities Exchange Act of 1934. See 17 CFR 242.608(b)(3)(iii). The abrogation period for the OPRA Plan amendment has expired. Interested

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File No. SR–OPRA–2015–02 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 SR–OPRA–2015–02. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the OPRA Plan amendment that are filed with the Commission, and all written communications relating to the OPRA 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 Web site 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OPRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OPRA–2015–02 and should be submitted on or before May 9, 2016.

By the Commission.

Robert W. Errett,

Deputy Secretary.

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persons may nevertheless submit written comments on the OPRA Plan amendment.