submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''Plan''). The amendment revises the Dial-Up Market Data Service Rider (''Rider'') to OPRA's vendor agreement to accommodate a third party vendor's provision of dial-up service to customers of an OPRA subscriber. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to add provisions to OPRA's Dial-Up Market Service Data Service Rider to the vendor agreement to accommodate the situation in which an OPRA vendor provides a dial-up service to the customers of an OPRA subscriber, rather than to its own customers. According to OPRA, several vendors and broker-dealer subscribers have recently expressed interest in such an arrangement. As this arrangement is not currently contemplated under the Rider, the proposal would amend the Rider to address the one significant difference between the traditional situation of a firm providing a dial-up service to its own customers and the recent proposals for firms to arrange for third-party vendors to provide a dial-up service for the firm's customers. In the former case, there is a direct contractual relationship between the vendor, a party to the Rider, and the vendor's customers. In the latter case, however, the vendor's subscriber, rather than the vendor, has a contractual relationship with the customer.

In its current form, the Rider imposes certain obligations on vendors who provide a dial-up service. These obligations require that contracts between vendors and their customers contain specific provisions, for the benefit of OPRA, relating to proprietary rights to OPRA data, non-retransmission of data, the absence of any guarantee of the data and a disclaimer of liability. The proposed amendment to the Rider would mandate that vendors require comparable provisions to be included in contracts between subscribers and their customers who receive a dial-up service from a third-party vendor. In a situation where the vendor, and not the subscriber, actually provides the dial-up service to the subscriber's customers, only the vendor will be a party to a Rider. Accordingly, the proposed amendment would make it a condition to a vendor's providing a dial-up service to the customers of a subscriber that the subscriber must agree, in writing, with the vendor to include the requisite provisions in its written agreements with its customers.[2]

Other than as described above, OPRA proposes no change in the way in which dial-up services may be offered to investors. OPRA represents that no new or additional OPRA fees will result from this proposed amendment and the amendment will not make any new parties subject to OPRA's existing fees.

II. Implementation of the Plan Amendment

The proposed amendment will be reflected in a revised form of Rider that will be phased in to take the place of the existing Rider, subject to Commission approval.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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, and 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 withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All Submissions should refer to file number SR–OPRA–97–4 and should be submitted by October 23, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary,

[FR Doc. 97–26146 Filed 10–1–97; 8:45 am]

BILLING CODE 8010–01–M

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the 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 Exchange (''PCX''); and the Philadelphia Stock Exchange (''Phlx'').

[2] The proposal would require vendors to obtain a written agreement from each OPRA subscriber whose customers will be provided the dial-up service from the vendor that the subscriber will: (1) Obtain from each of its customers to whom the vendor furnishes the service an agreement that the customer will: (a) To receive OPRA data only for such person's use, (b) to not retransmit the data to anyone else, and (c) to acknowledge that OPRA data is the property of the respective exchange or market in which a reported transaction occurred or a reported quotation was entered; (2) provide to the vendor a current list of customers entitled to receive the service from the vendor and to certify that each named customer has entered into the required agreement; (3) maintain the same customer records required to be maintained by the vendor with respect to customers; and (4) acknowledge the absence of any guarantee and the disclaimer of liability on the part of OPRA, OPRA's processor and each participating exchange.

[3] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39131; File No. SR–OPRA–97–3]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan Revising Professional Subscriber Fees and Eliminating the Requirement That Enterprise Rate-Based Fees Must Be Paid by Electronic Funds Transfer

September 25, 1997.

Pursuant to Rule 11Aa3–2 under the Securities and Exchange Act of 1934 (''Exchange Act''), notice is hereby given that on September 9, 1997, the Options Price Reporting Authority (''OPRA'')[1] submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''Plan''). The amendment revises the device-based fees paid by professional subscribers for OPRA's Basic Service, effective January 1, 1998. In addition, the amendment eliminates a requirement that persons electing to pay the enterprise rate-based subscriber fee must arrange for payment by electronic funds transfer. OPRA has designated this proposal as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, permitting the proposal to become effective upon

[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3–2 thereunder. *See* Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the 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 Exchange (''PCX''); and the Philadelphia Stock Exchange (''Phlx'').

filing pursuant to Rule 11Aa3–2(3)(i) under the Exchange Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to revise the fees payable to OPRA by professional subscribers for access to OPRA's Basic Service, which consists of market data and related information pertaining to equity and index options (''OPRA Data'').[2] Professional subscribers are those persons who subscribe to OPRA Data and do not qualify for the reduced fees charged to nonprofessional subscribers. The Basic Service professional subscriber fee was last amended in April 1997,[3] which, in turn, followed an earlier Plan amendment that initially proposed a program of fee revisions to be implemented in stages over a four-year period.[4] Subsequently, OPRA amended that filing to propose only the first stage of the fee revision program, with the understanding that the implementation of the remaining stages would be the subject of separate filings.[5] This amendment proposes the third stage of the fee revision program. Like the first two stages, this amendment is intended to increase OPRA revenues derived from device-based subscriber fees by less than 5% in order to permit a greater share of the costs of collecting, consolidating, processing and transmitting options market information to be covered by professional subscriber fees. This amendment also continues the process of simplifying the structure of the professional subscriber fee by reducing the number of member rate pricing tiers from four to three for purposes of the volume discount in the per-device fee.

Similar to the past two years' fee revisions, the proposed changes in the level of OPRA's device-based professional subscriber fee will reduce or leave the fees paid by the smallest subscribers and increase the fees paid by larger subscribers.[6] Subscriber fees charged to members will continue to be discounted by 2% for members who preauthorize payment by electronic funds transfer through an automated clearinghouse system. OPRA estimates that the overall effect of these fee revisions will be to increase revenues derived from device-based professional subscriber fees by slightly less than 5%.

OPRA proposes the fee revisions as a result of the continued implementation of systems and equipment upgrades and additions to increase the capacity and enhance the reliability and security of the OPRA system. The costs of collection, processing, consolidating and disseminating options last sale and bid/ask information have continued to increase, and further increases are anticipated. The modest increases in device-based fees provided for in the proposed amendment are intended to permit some increase in device-based revenues to cover these greater expenses.

OPRA also proposes to amend Section 2 of the Enterprise Rate Amendment to its Professional Subscriber Agreement to eliminate the requirement that the enterprise rate-based fee must be paid by electronic funds transfer. Although this requirement was originally included to simplify the billing and collection of OPRA's enterprise rate subscriber fee and thereby lower OPRA's costs of administration, OPRA's experience over the past year has suggested that a number of firms are not yet organized in a manner that facilitates electronic funds transfers. Accordingly, OPRA believes that this requirement prevented certain firms from taking advantage of the enterprise rate agreement when they might otherwise have elected to do so. To eliminate this impediment to a broader acceptance of the enterprise rate arrangement, OPRA has decided to eliminate the electronic fund transfer requirement. Instead, to encourage timely payment of the enterprise rate fees, OPRA proposes to impose interest charges on amounts not paid by the end of the month following the month in which the fees are invoiced. Interest charges will be calculated as the lesser of the prime rate plus three percent or the maximum lawful rate of interest.

Although this amendment was filed for immediate effectiveness pursuant to Rule 11Aa3–2(c)(3)(i), the revised subscriber fees will be put into effect as of January 1, 1998 to provide subscribers advance notice of the changed fees. The elimination of the electronic funds transfer requirement for payment of the enterprise rate subscriber fee will be effective immediately.

II. Solicitation of Comments

Pursuant to Rule 11Aa3–2(c)(3), the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action 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 Exchange Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, and 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 withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All submissions should refer to file number SR–OPRA–97–3 and should be submitted by October 21, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26148 Filed 10–1–97; 8:45 am]

BILLING CODE 8010–01–P

[2] Information pertaining to foreign currency options (FCOs) is provided through OPRA's FCO Service, which fees are not affected by this filing.

[3] *See* Securities Exchange Act Release No. 38467 (April 2, 1997), 62 FR 17652 (April 10, 1997).

[4] *See* Securities Exchange Act Release No. 36364 (October 12, 1995), 60 FR 54093 (October 19, 1995).

[5] *See* Securities Exchange Act Release No. 36817 (February 7, 1996), 61 FR 5827 (February 14, 1996).

[6] The proposed tiers are as follows: (1) for 1–9 devices, members pay $15.00 per device and non-members pay $24.00 per device; (2) for 10–29 devices, members pay $15.00 per device and non-members pay $20.00 per device; (3) for 30–99 devices, members pay $12.00 per device and non-members pay $20 per device; (4) for 100–749 devices, members pay $12.00 per device and non-members pay $14.50 per device; and (5) for 750+ devices, members pay $9.40 per device and non-members pay $14.50 per device.

[7] 17 CFR 200.30–3(a)(29).