out requirements that are intended to elicit only the information that OPRA would need in order to verify the fees paid by a television company for television dissemination.

In addition, to accommodate the possibility that some owners of the indexes that OPRA disseminates may not wish to grant television companies the right to disseminate their indexes separately from the dissemination of related options market data, the new Rider would include language providing OPRA with the ability to grant permission to Vendor television companies to display index values separately from the dissemination of related options market data, and to revoke that permission. OPRA would treat all television companies that sign Riders identically with respect to permission to display index values. However, if OPRA revokes permission to display particular index values separately from the dissemination of related options market data, and, as a consequence, the television company Vendor no longer wishes to display OPRA Data values and to pay fees for doing so, language in the Rider would allow the television company Vendor to terminate the Rider and its Vendor Agreement, or only the Rider, effective as of the date that the index values cease to be available to the television company Vendor.[5]

Furthermore, Section 2 of the Rider would require a television company Vendor to display a legend on its television display at least three times a day. OPRA represents that the form of the legend would be the same as the legend required by the Consolidated Tape Association (''CTA'') for its counterpart Network A service, and the requirement with respect to the display of the legend would be the same as the CTA requirement.[6]

Finally, OPRA proposes to charge a fee for the dissemination via television of current OPRA Data on the basis of the number of ''thousands of households reached'' by the Vendor television company's programming.[7] OPRA represents that this metric is widely used in the television industry and is used by CTA for its counterpart service.

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.[8] Specifically, the Commission finds that the proposed OPRA Plan amendment is consistent with Section 11A of the Act[9] and Rule 608 thereunder[10] 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 mechanism of, a national market system.

The Commission believes the new Rider to allow television companies to disseminate current OPRA data via a passive scrolling or ticker television display is consistent with, and would further one of the principal objectives for the national market system set forth in Section 11A(a)(1)(C)(iii) of the Act[11] because it would help to assure the availability of information with respect to options information to brokers, dealers, and investors. Furthermore, the Commission believes that the proposed OPRA Plan amendment provides for an equitable allocation of reasonable fees for the dissemination via television of current OPRA Data.

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–2007–05) be, and it hereby is, approved.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–1997 Filed 2–4–08; 8:45 am]

BILLING CODE 8011–01–P

[5] Any Vendor has the right under paragraph 1(c) of the Rider to terminate the Rider, and under paragraph 19(d) of the OPRA form of Vendor Agreement to terminate the Vendor Agreement, in each case without cause upon thirty days written notice. The termination right essentially provides comfort to a television company Vendor that, if an index ceases to be available to the Vendor on less than thirty days notice, the Vendor may terminate either the Rider alone or the Rider and Vendor Agreement on the date the index ceases to be available.

[6] *See* the CTA form of Exhibit C to its form Agreement for Receipt and Use of Consolidated Network A Data and NYSE Market Data for ''Cable Broadcasts.''

[7] Specifically, OPRA plans to charge a fee of $.50 per 1,000 households reached. *See* proposed ''Television Display Fee'' on the OPRA Fee Schedule.

[8] 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).

[9] 15 U.S.C. 78k–1.

[10] 17 CFR 242.608.

[11] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[12] 15 U.S.C. 78k–1.

[13] 17 CFR 242.608.

[14] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57230; File No. SR–OPRA–2007–03]

Options Price Reporting Authority; Order Granting Permanent Approval to an Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information, as Modified by Amendment No. 1 Thereto, To Modify Various Provisions of the OPRA Plan and the OPRA Fee Schedule To Reflect the Elimination of Separate Fees for Access to Market Data Concerning Foreign Currency Options

January 29, 2008.

I. Introduction

On October 9, 2007, the Options Price Reporting Authority (''OPRA'') 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 amend various provisions of the OPRA Plan in order to reflect the elimination of the separate fees for access to market data concerning Foreign Currency Options (''FCOs'') that currently apply to certain FCOs traded on the Phlx. The OPRA Fee Schedule would similarly be revised to reflect the elimination of the separate FCO service access fees. On November 14, 2007, OPRA submitted Amendment No. 1 to the proposal.[4] On December 11, 2007, OPRA submitted a revised version of Exhibit II to Amendment No. 1 to the proposal, which it requested to be

[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 six participants to the OPRA Plan are the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the International Securities Exchange, Inc. (''ISE''), the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc. (''Phlx'').

[4] Amendment No. 1 replaced the original filing in its entirety.

substituted for the original version of Exhibit II.[5]

On December 12, 2007, the Commission issued notice of and approved the proposal, as amended, on a temporary basis not to exceed 120 days, and solicited comment on the proposal.[6] The Commission received no comment letters in response to the Temporary Approval Order. This order approves the proposed OPRA Plan amendment, as modified by Amendment No. 1, on a permanent basis.

II. Description of the Proposal

Effective March 14, 1995, the OPRA Plan was amended to authorize the imposition of separate, unbundled access charges for market information pertaining to FCOs.[7] Subsequently, effective January 1, 1996, separate access charges for market information were imposed by OPRA, and subject to the exception described below, such separate charges have remained in effect since that time.[8] More recently, OPRA adopted a temporary exception to the separate FCO access fees for ''new'' FCOs first listed on any exchange on or after December 6, 2005, pursuant to which access to market information pertaining to such securities has been included within OPRA's basic information service, and has required payment only of OPRA's basic service access fees.[9] This temporary exception, which is set forth in Section VIII(c)(iii) of the OPRA Plan, was scheduled to expire by its terms on December 31, 2007, at which time, absent extension, all FCOs would become subject to separate FCO service access fees.[10]

Presently, OPRA states that certain classes of FCOs traded on the Phlx are subject to the separate FCO access fees, while other classes of FCOs traded on that exchange (those first listed on or after December 6, 2005) are subject to OPRA's basic service access fees. Further, the ISE is the only other exchange currently trading FCOs, where all of the FCOs were listed subsequent to December 6, 2005, and thus are subject only to OPRA's basic service access fees.

Recently, the Phlx informed OPRA that it has ceased listing new series of physical delivery FCOs to replace expiring series, and instead provides a market for foreign currency derivative securities through the listing of new classes of U.S. dollar-settled FCOs, sometimes referred to as World Currency Options. Under the current OPRA Plan, access to market data concerning all options, including the new U.S. dollar-settled FCOs, as well as individual equity options and cash-settled index options, is subject to OPRA's basic service access fees.[11]

OPRA proposes this amendment in order to maintain the same fee structure after the temporary exception for FCOs would otherwise have expired at the end of 2007. Trading in existing classes of physical delivery FCOs on the Phlx would be restricted to closing transactions until the last outstanding class expires on March 14, 2008, if the remaining positions in these classes are not closed out sooner. Accordingly, by that date, if not sooner, there would no longer be any physical delivery FCOs traded on the Phlx that would be subject to the existing separate FCO service access fees. At that time, access to market data for all options, including U.S. dollar-settled FCOs and all other FCO securities, would require payment only of OPRA's basic service access fees.

With respect to the FCOs traded on the ISE, OPRA notes that, unless the OPRA Plan is amended to eliminate the separate access fees for FCOs, upon the expiration of the temporary exception, FCOs traded on the ISE would have become subject to the separate FCO service access fees. In order to avoid subjecting FCO subscribers to what for them would be a new, additional, access fee for continued access to FCO market information, OPRA states that the ISE joined with the Phlx in requesting OPRA to amend the OPRA Plan to reflect the elimination of these separate fees.

Under the proposed amendment, the OPRA Plan would treat FCOs in exactly the same manner in which it now treats index options. Specifically, similar to index options, the OPRA Plan would continue to provide for a separate FCO accounting center and a framework for the possible future imposition of a separate access fee when and if authorized by the parties that provide a market in those securities, subject to satisfying the requirements of the Act.

Because the proposed amendment cannot become effective until the elimination by expiration or by closing transaction of the last remaining open position in physical delivery FCOs traded on Phlx that are subject to the separate FCO service access fees, which could be as late as March 14, 2008, and because it is necessary to retain the temporary exception from the separate FCO service access charges until these separate charges no longer apply, OPRA proposes to extend the temporary exception, currently scheduled to expire on December 31, 2007, until as late as March 14, 2008. Accordingly, this proposed amendment includes an extension of the temporary exception provided for in Section VIII(c)(iii) of the OPRA Plan until such time as there is no longer any open interest in physical delivery FCOs traded on the Phlx that are subject to the separate FCO service access fees. In no event will this be later than March 14, 2008. In accordance with the proposed OPRA Plan amendment, the Phlx will advise OPRA when that last remaining open interest no longer exists, so that the separate FCO service access fees and the temporary exception can be removed from the OPRA Plan effective as of that time.

III. Discussion

After careful review, the Commission finds that the proposed OPRA Plan amendment, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder.[12] Specifically, the Commission finds that the proposed OPRA Plan amendment is consistent with Section 11A of the Act[13] and Rule 608 thereunder[14] in that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanism of, a national market system.

The Commission believes that it is appropriate for the proposed OPRA Plan amendment to preserve the status quo and extend the deadline set forth in Section VIII(c)(iii) of the OPRA Plan

[5] The revised Exhibit II made technical changes to the original and corrected an outdated reference to the ''NASD,'' which is now called ''FINRA.''

[6] *See* Securities Exchange Act Release No. 56949 (December 12, 2007), 72 FR 71720 (December 18, 2007) (''Temporary Approval Order'').

[7] *See* Securities Exchange Act Release No. 35487 (March 14, 1995), 60 FR 14984 (March 21, 1995) (File No. S7–8–90).

[8] *See* Securities Exchange Act Release No. 36613 (December 20, 1995), 60 FR 67144 (December 28, 1995) (SR–OPRA–95–5).

[9] *See* Securities Exchange Act Release Nos. 52901 (December 6, 2005), 70 FR 74061 (December 14, 2005) (SR–OPRA–2005–03) and 55049 (January 5, 2007), 72 FR 1568 (January 12, 2007) (SR–OPRA–2006–02).

[10] Pursuant to the Temporary Approval Order, this deadline was extended on a temporary basis not to exceed 120 days.

[11] In the case of U.S. dollar-settled FCOs, the fee reflects the temporary exception described above, whereas in the case of equity and index options, it is because OPRA has never adopted separate access fees for its index option service, but instead has made index options subject to the same basic service access fees that apply to equity options.

[12] 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).

[13] 15 U.S.C. 78k–1.

[14] 17 CFR 242.608.

until such time as there is no longer any open interest in physical delivery FCOs traded on the Phlx that are subject to the separate FCO service access fee. In addition, the Commission believes that OPRA's proposal to amend various provisions of the OPRA Plan and the OPRA Fee Schedule to eliminate the separate fees for access to market data concerning FCOs that currently apply to certain FCOs traded on the Phlx is appropriate in light of the Phlx's decision to cease listing new series of physical delivery FCOs to replace expiring series. Accordingly, the Commission believes that it 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 mechanism of, a national market system to approve the proposed amendment to the OPRA Plan on a permanent basis.

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–2007–03), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on a permanent basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–1998 Filed 2–4–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57231; File No. SR–CBOE–2007–152]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendments No. 1, 2, and 3 Relating to a Hybrid Agency Liaison (''HAL'') Step-Up Rebate and Pass-Through of Certain Linkage Related Costs

January 30, 2008.

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 December 21, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by CBOE. On January 16, 2008, CBOE filed Amendment No. 1 to the proposed rule change. On January 23, 2008, CBOE filed Amendment No. 2 to the proposed rule change, and on January 28, CBOE filed Amendment No. 3 to the proposed rule change.[3] CBOE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under section 19(b)(3)(A)(ii) of the Act,[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

CBOE proposes to: (i) Establish a HAL step-up rebate, and (ii) pass through to members certain costs related to Intermarket Option Linkage (''Linkage'') Principal orders. The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary, 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, CBOE 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. CBOE 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

HAL Step-Up Rebate

HAL is a system for automated handling of electronically received orders that are not automatically executed upon receipt by the Hybrid Trading System (''Hybrid''). CBOE Rule 6.14 governs the operation of the HAL system.

Orders received by the HAL system are electronically exposed to all CBOE market-makers appointed to the relevant option class, as well as to all members acting as agent for orders at the top of the Exchange's book in the relevant option series. This exposure and a subsequent allocation period (together, the ''HAL auction'') afford crowd members an opportunity to match the away national best bid or offer (''NBBO'') price. If any portion of an exposed order remains unexecuted at the end of a HAL auction, then the remaining order would be booked if it is a limit order that is not marketable, or, if marketable, routed to the exchange showing the NBBO via Linkage.

In order to provide an incentive to market makers to execute orders at CBOE, versus routing orders away via Linkage, the Exchange proposes to establish a program whereby the Exchange would provide a rebate to market-makers that ''step-up'' and trade all or part of certain orders on the HAL system. Specifically, the Exchange will rebate to a market-maker $.20 per contract against transaction fees generated from a transaction on the HAL system in a penny pilot class, provided that at least 80% of the market-maker's quotes in that class (excluding quotes in LEAPS series) in that same month were on one side of the NBBO. Market-makers not meeting this 80% criteria would not be eligible to receive a rebate. The Exchange believes the HAL rebate will allow market-makers to compete better for order flow in the penny pilot classes.

Pass-Through of Linkage P Order Costs

Pursuant to Section 21 of the CBOE Fees Schedule, the Exchange provides certain rebates and credits to Designated Primary Market-Makers (''DPMs'') for fees they incur related to the execution of outbound Principal orders (''P orders'') on behalf of orders that are for the account of a broker-dealer (*i.e.*, ''B'' and ''F'' origin codes).

The Exchange proposes to amend this program in two respects. First, the

[15] 15 U.S.C. 78k–1.

[16] 17 CFR 242.608.

[17] 17 CFR 200.30–3(a)(29).

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

[2] 17 CFR 240.19b–4.

[3] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on January 28, 2008, the date on which the Exchange filed Amendment No. 3. See 15 U.S.C. 78s(b)(3)(C).

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).