

securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. With respect to Market Maker orders, the Exchange believes that it is reasonable and equitable to keep their fees the same because Market Makers are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,<sup>13</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed fees remain competitive with fees charged by other options exchanges as discussed above. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>14</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>15</sup> because it establishes a

due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2016-09 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-ISE-2016-09. 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 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 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 the Exchange. 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-ISE-2016-09 and should be submitted by May 9, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-77592; File No. SR-NASDAQ-2016-023]**

#### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rules 4702 and 4703**

April 12, 2016.

On February 10, 2016, The NASDAQ Stock Market LLC filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Rules 4702 and 4703. The proposed rule change was published for comment in the **Federal Register** on March 1, 2016.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is April 15, 2016.

<sup>16</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 77226 (February 24, 2016), 81 FR 10687.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 15 U.S.C. 78f(b)(8).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>15</sup> 17 CFR 240.19b-4(f)(2).

The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates May 30, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-NASDAQ-2016-023).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Robert W. Errett,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77586; File No. SR-OPRA-2015-03]

### 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 Redistribution Fee Set Forth in OPRA's Fee Schedule

April 12, 2016.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> 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").<sup>3</sup> Effective January 1,

2016, the OPRA Plan amendment revised the description of OPRA's reduced rate Redistribution Fee. The 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 purpose of the amendment is to amend the OPRA Fee Schedule to revise the description of one of OPRA's Redistribution Fees. Specifically, the purpose of the OPRA Plan amendment is to make clear that OPRA's "reduced rate" Redistribution Fee of \$650/month is available only to Vendor Services that are intended for Subscribers that want to query specific OPRA data, and that this fee is not available for any Vendor Service that includes a data streaming capability. In effect, the OPRA Plan amendment returns the applicability of this fee to the scope that it had when it was first implemented in 1999.

An OPRA Redistribution Fee is payable by every OPRA "Vendor." An OPRA "Vendor" is a recipient of OPRA data that redistributes the data "externally"—that is, to persons outside the data recipient itself. OPRA has had a two-tier Redistribution Fee for many years: the basic OPRA Redistribution Fee has been \$1,500/month for many years, and a reduced rate of \$650/month has been available for many years.<sup>4</sup> OPRA has referred to this reduced rate as the "Internet Service Only" rate.

The OPRA Plan amendment changed the description of the reduced rate of \$650/month to specify that the reduced rate is for "Query service only," rather than "Internet service only," and revised the footnote that accompanies the reduced rate to state that: "A Vendor's Service qualifies for the 'Query service only' rate if the Vendor's Service provides access to OPRA Data only on a 'query' basis without any auto-refreshing capability and does not redistribute OPRA Data via dedicated lines or to the systems of one or more other Vendors (sometimes referred to as

'downstream Vendors') or to one or more Hosted Solutions."<sup>5</sup>

When OPRA implemented the "Internet service only" Redistribution Fee, an "Internet service only" was a service that was not suitable for high-speed/high-reliability data transmission and high traffic volumes, and was a service appropriate for retail customers interested in querying specific options quotations and last sale prices.

OPRA estimates that the revised definition of the reduced rate Redistribution Fee is likely to affect between 35 and 45 of its Vendors, out of a total population of roughly 200 Vendors. Many of the remaining 155 to 165 OPRA Vendors also utilize the Internet to disseminate their data services, and pay the regular OPRA Redistribution Fee. Accordingly OPRA believes that the OPRA Plan amendment will cause all Vendors that are similarly situated in terms of the means of dissemination of their data services to be subject to the same OPRA Redistribution Fee.

For an OPRA Vendor that is required to pay the regular Redistribution Fee instead of the reduced rate as a result of the change, the change will result in an increase of \$850/month or \$10,200/year in its OPRA Redistribution Fees. If the maximum estimated number of 45 Vendors are affected by the change and none cease to be OPRA Vendors, OPRA's annualized revenues would increase by \$459,000 as a result of the change, representing approximately a 0.67% increase in OPRA's annualized revenues; any lesser number of Vendors being affected by the change would result in a smaller increase in OPRA's revenues as a result of the change.

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

<sup>5</sup> OPRA added the footnote that accompanies the reduced rate in File No. SR-OPRA-2011-02. See Securities Exchange Act Release No. 64819 (July 6, 2011), 76 FR 40967 (July 12, 2011). OPRA's experience has been that some Vendors have continued to assume, notwithstanding the footnote, that they qualify for the reduced rate even though they provide high message capacity data streaming services.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> 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.

<sup>4</sup> OPRA first introduced a reduced rate of \$600 "payable by those redistributors who utilize the Internet as their exclusive means of redistribution" in 1998. See Securities Exchange Act Release No. 40791 (December 15, 1998), 63 FR 70815 (December 22, 1998) (SR-OPRA-98-03). OPRA subsequently increased the reduced rate to \$650 in 2002. See Securities Exchange Act Release No. 45315 (January 18, 2002), 67 FR 4477 (January 30, 2002) (SR-OPRA-2001-05).