

7. Before a Fund may participate in Securities Lending Arrangements, a majority of the Fund Board, including a majority of the Independent Trustees, will approve the Fund's participation in Securities Lending Arrangements. Such Independent Trustees also will evaluate the Securities Lending Arrangements and their results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of the Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-18733 Filed 7-26-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44580; File No. SR-OPRA-2001-02]

Options Price Reporting Authority; Order Granting Partial Approval to the Portion of an Amendment to OPRA Plan To Permit Exchanges To Disseminate Unconsolidated Market Information to Certain of Their Members Under Certain Circumstances

July 20, 2001.

I. Introduction

On April 12, 2001, the Options Price Reporting Authority ("OPRA"),¹ submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act"),² and Rule 11Aa3-2 thereunder,³ an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan"). The

proposed amendment would permit options exchanges to disseminate unconsolidated market information to certain of their members under certain circumstances. Notice of the proposed amendment was published in the **Federal Register** on May 31, 2001.⁴ No comments were received on the proposal. This Order grants partial approval to the portion of the proposed amendment to the OPRA Plan that precisely mirrors the conditions set forth in exemptive letters previously issued by the Commission.⁵

II. Description and Purpose of the Amendment

OPRA proposes to change the provision of the OPRA Plan that requires the participants to use the OPRA System as the exclusive means for the dissemination of options last sale reports and quotation information (the "exclusivity clause"). The proposed amendment, in part, would modify the exclusivity clause to incorporate two conditional, temporary exemptions from the exclusivity clause that the Commission previously granted to the ISE and the CBOE.⁶ These exemptions, which expire on September 1, 2001, permit these two exchanges to disseminate to all of their members, but not to other persons, unconsolidated market information pertaining to options traded in their respective markets by means of communication networks other than the OPRA System, subject to certain conditions.

The proposed amendment would modify the exclusivity clause so that each OPRA participant could disseminate its own market information by means of communication networks separate from the OPRA System under the following conditions. First, an OPRA participant could disseminate its own market information through means separate from the OPRA System only to other OPRA participants, and to its members for display on terminals or workstations used by persons associated

with such members who are authorized to enter or transmit orders or quotations in the options market maintained by the OPRA participant.⁷ This condition means that an exchange's market information could not be furnished to a customer of a member, whether over a terminal sponsored by a member or otherwise.

Second, each member to which an OPRA participant disseminates its market information would be required to have equivalent access to consolidated options market information disseminated by OPRA for the same classes or series of options that are included in the market information.⁸ Access would be deemed to be "equivalent" if the information were equally accessible on the same terminal or workstation. Both of these conditions are consistent with conditions set forth by the Commission in the exemptive letters to the ISE and CBOE.

Finally, the proposed amendment would prohibit OPRA participants from disseminating their market information through means other than the OPRA System on a more timely basis than the same information is furnished to the OPRA System for inclusion in the consolidated information disseminated by OPRA.⁹ While this condition mirrors one set forth in the exemptive letters because it would not consider market information to be disseminated more timely than information is furnished to the OPRA System simply because the market information includes additional or more frequently updated information, so long as it does not include additional or more frequently updated price information with respect to the best bid or best offer for any series of options as compared with price information furnished to OPRA. Accordingly, the proposed amendment would permit an OPRA participant to provide market information through a network separate from the OPRA System that is in addition to, or different from, the information furnished to the OPRA System, including information concerning orders and quotations in the OPRA participants' market that do not represent the best bid and offer and size information.

The proposed amendment to the current OPRA Plan is reproduced below. Additions are italicized.

* * * * *

⁷ See proposed OPRA Plan amendment, Section V.(c)(iii)(A).

⁸ See proposed OPRA Plan amendment, Section V.(c)(iii)(B).

⁹ See proposed OPRA Plan amendment, Section V.(c)(iii)(C).

¹ OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act, 15 U.S.C. 78k-1, and Rule 11Aa3-2 thereunder, 17 CFR 240.11Aa3-2. See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). 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 five signatories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange ("CBOE"), the International Securities Exchange ("ISE"), the Pacific Exchange, and the Philadelphia Stock Exchange. The New York Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the CBOE in 1997. See Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

² 15 U.S.C. 78k-1.

³ 17 CFR 240.11Aa3-2.

⁴ See Securities Exchange Act Release No. 44347 (May 24, 2001), 66 FR 29612.

⁵ See *infra* notes 5-8 and accompanying text.

⁶ These 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, have been 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.

V. Collection and Dissemination of Options Last Sale Reports and Quotation Information

(a)–(b) No change.

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

(i) The OPRA System shall provide for the uniform, nondiscriminatory dissemination of Options Information, on fair and reasonable terms over a network or networks to vendors, subscribers and other approved persons. Last sale reports and quotation information with respect to eligible securities shall be disseminated only through the OPRA System, and only such reports and information, together with other information that satisfies the conditions of *paragraph (iv) of this Section V(c)* or is approved by OPRA, shall be disseminated through the System.

(ii) *Notwithstanding paragraph (i) of this Section V(c), a party may disseminate information pertaining to quotations and transactions in its market ("Proprietary Information") through a network separate from the OPRA System provided that such dissemination meets the requirements of paragraphs (iii) and (iv) of this Section V(c).*

(iii) *A party may disseminate its Proprietary Information pursuant to paragraph (ii) of this Section V(c) provided that:*

(A) *such dissemination is limited to (1) such party's members only for display on terminals or workstations used by persons associated with the member who are authorized to enter or transmit orders or quotations in or to the options market maintained by such party, and (2) other parties to the Plan;*

(B) *each member to which a party disseminates its Proprietary Information also has 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 subparagraph (B), 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 workstation; and*

(C) *a party 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. For purposes of this subparagraph (C), Proprietary Information shall not be deemed to be disseminated more timely*

than information is furnished to the OPRA System simply because the Proprietary Information includes additional or more frequently updated information (but not additional or more frequently updated price information in respect of the best bid or offer for any series of options included in OPRA's consolidated dissemination) than is required to be furnished to the OPRA System.

(iv) Any one or more parties may utilize the OPRA System for the purpose of disseminating information in addition to last sale reports and quotation information, but only if the following conditions are met:

(1)–(4) No change.

(d) *Indemnification* No change.

* * * * *

III. Discussion

After careful review, the Commission finds that it is appropriate to partially approve the proposed amendment. Specifically, the Commission is approving all proposed changes to Section V of the OPRA Plan, except the last sentence of paragraph (c)(ii)(C).

Although the Commission continues to strongly support the dissemination of consolidated market data to all market participants, there is no clear policy reason to justify limiting the market information made available to the members of a particular market, so long as consolidated information is readily available either on the same terminal or on a separate terminal or device at the same workstation. The Commission believes that the restrictions on the dissemination of unconsolidated market data, coupled with the conditions that each member to which an OPRA participant disseminates its proprietary information has equivalent access to consolidated options market information disseminated by OPRA for the same classes or series of options that are included in the proprietary information and that all market data provided to the OPRA system be as timely as the market data provided directly to participant members, should provide adequate safeguards to ensure that the use of unconsolidated market information is appropriately limited. The Commission notes that the proposed conditions on the dissemination of unconsolidated data are the same conditions imposed on the CBOE and ISE as conditions of the grant of exemptive relief from the exclusivity clause of the OPRA Plan.

Further, the Commission believes that by modifying the OPRA Plan to incorporate the exemptions previously granted to the CBOE and ISE from the OPRA Plan's exclusivity clause, the

proposed amendment will place all of the parties to the OPRA Plan on equal footing with respect to the right to disseminate market data to their members, thereby fostering fair and equal competition among all of the parties. The Commission believes that this will allow any of the parties to the OPRA Plan to make market information available to members who enter or transmit orders or quotes in or to its market, while at the same time assuring that all persons who have access to market information also have equal access to consolidated market information disseminated by OPRA.

The Commission is not approving the portion of the amendment that would permit the dissemination of proprietary information through means other than the OPRA System that is additional or updated more frequently than the information disseminated through OPRA, such as information relating to the size associated with an exchange's quotes.¹⁰ The Commission cannot find that this portion of the 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 to perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act because, as discussed below, the Commission finds that this provision is inconsistent with the Commission's Quote Rule.¹¹

The Commission's Quote Rule requires that if an exchange collects from responsible brokers or dealers quotation sizes and aggregate quotation sizes in listed options, such exchange must make available the aggregate quotation sizes associated with the best bid and offer to quotation vendors. The Commission believes, and OPRA acknowledges, that, absent an exemption from the Quote Rule, an exchange may not make available aggregate quote size through a network separate from the OPRA System (*i.e.*, make available to a quotation vendor) without also making such information available to other quotation vendors

¹⁰ The proposed text of the amendment that the Commission is not approving reads:

For purposes of this subparagraph (C), Proprietary Information shall not be deemed to be disseminated more timely than information is furnished to the OPRA System simply because the Proprietary Information includes additional or more frequently updated information (but not additional or more frequently updated price information in respect of the best bid or offer for any series of options included in OPRA's consolidated dissemination) than is required to be furnished to the OPRA System.

¹¹ Exchange Act Rule 11Ac1–1, 17 CFR 240.11Ac1–1.

through the OPRA System. Because the proposed amendment would permit an OPRA participant to provide market information through a network separate from the OPRA System that is in addition to or different from the information furnished to the OPRA System, the Commission finds that this provision is inconsistent with the Quote Rule, promulgated under Section 11A of the Act.¹²

IV. Conclusion

It is therefore ordered, pursuant to Rule 11Aa3-2 of the Act,¹³ that the proposed OPRA Plan amendment is approved in part.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-18764 Filed 7-26-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During Week Ending July 13, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST-2001-10092

Date Filed: July 10, 2001

Parties: Members of the International Air Transport Association

Subject:

PTC2 ME 0092 dated 29 June 2001
TC2 Within Middle East Expedited Resolutions 002d, 070ba

PTC2 ME 0093 dated 29 June 2001
Intended effective date: 15 August 2001

Docket Number: OST-2001-10140

Date Filed: July 12, 2001

Parties: Members of the International Air Transport Association

Subject:

CAC/29/Meet/004/01 dated 23 May 2001

Expedited Resolution 801r
Intended effective date: Expedited 1 July 2001

Docket Number: OST-2001-10141

Date Filed: July 12, 2001

Parties: Members of the International Air Transport Association

Subject:

CAC/29/Meet/006/01 dated 21 June 2001

Finally Adopted Resolutions r1-r14
Minutes—CAC/29/Meet/005/01 dated 18 June 2001

Intended effective date: 1 October 2001

Docket Number: OST-2001-10142

Date Filed: July 12, 2001

Parties: Members of the International Air Transport Association

Subject:

CBPP/8 Finally Adopted Resolution 606

Bar Coded Label [Minutes, circulated by CBPP/8/Meeting/003/00 dated 5 March 2001, were submitted this date with CBPP/8 Finally Adopted Resolution 600a. Both 600a and 606 were adopted at the Cargo Business Process Panel meeting held in Montreal on October 16-18, 2000.]

Intended effective date: 1 October 2001

Docket Number: OST-2001-10143

Date Filed: July 12, 2001

Parties: Members of the International Air Transport Association

Subject:

CBPP/8 Finally Adopted Resolution 600a

Air Waybill Amendment
Minutes—CBPP/8/Meeting/003/00 dated 5 March 2001

Intended effective date: 1 October 2001

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01-18850 Filed 7-26-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending July 13, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases

a final order without further proceedings.

Docket Number: OST-2001-10115.

Date Filed: July 10, 2001.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 31, 2001.

Description: application of Planet Airways, Inc., pursuant to 49 U.S.C. 41102 and Subpart B, requesting a certificate of public convenience and necessity authorizing Planet to engage in scheduled interstate air transportation of persons, property and mail.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01-18849 Filed 7-26-01; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Gerald R. Ford International Airport; Grand Rapids, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use. The proposal consists of one parcel of land, totaling approximately 6.2 acres. Current use and present condition is vacant grassland. There are no impacts to the airport by allowing the airport to dispose of the property. The land was acquired utilizing federal funds under Grant 9-20-072-6001, dated April 13, 1961. Approval does not constitute a commitment by the FAA to financially assist in the lease of the subject airport property nor a determination that all measures covered by the program are eligible for Airport Improvement program funding from the FAA. The disposition of proceeds from the lease of the airport property will be in accordance with the FAA Policy and Procedures Concerning the Use of Airport Revenue, published in the Federal Register on February 16, 1999. This proposal is for approximately 6.2 acres in total.

In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the Federal Register 30 days before modifying the land-use assurance that requires the property to be used for an

¹² 15 U.S.C. 787k-1.

¹³ 17 CFR 11Aa3-2.

¹⁴ 17 CFR 200.30-3(a)(29).