Applicants state that the relief provided by rule 17a–7 may not be available for the Exchange because the Exchange will be effected on a basis other than cash. Applicants also state that the General Partner and the Partnership may be deemed an affiliated person of an affiliated person of the Alpha Fund because all of the interests of the General Partner are owned by two officers of the Adviser, who also own more than 5% of the Adviser. Thus, the Alpha Fund and the Partnership may be affiliated in a manner other than allowed under rule 17a–7.

4. Section 17(b) of the Act authorizes the Commission to exempt a transaction from the provisions of section 17(a) of the Act if the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

5. Applicants submit that the terms of the Exchange meet the criteria contained in section 17(b) of the Act. Applicants state that the Shares issued by the Alpha Fund will have an aggregate NAV equal to the NAV of the assets acquired from the Partnership, and that because the Shares will be issued to the Partners at NAV, the Partners' interests will not be diluted. Applicants also state that the investment objective and policies of the Alpha Fund are substantially similar to those of the Partnership, and that after the Exchange the Partners will hold substantially the same assets as Alpha Fund shareholders as they held as Partners. Applicants further state that the board, including a majority of the Independent Trustees, has approved the Exchange and that the Exchange will comply with rule 17a–7(b) through (f).

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Exchange will comply with the terms of rule 17a–7(b) through (f).

2. The Exchange will not occur unless and until the Board (including a majority of the Independent Trustees) finds that participation by the Alpha Fund in the Exchange is in the best interests of the Alpha Fund and its shareholders and that the interests of existing shareholders will not be diluted as a result of the Exchange. These findings, and the basis upon which they are made, will be recorded fully in the minute books of the Trust.

3. The Exchange will not occur unless and until the General Partner of the Partnership has determined in accordance with its fiduciary duties that the Exchange is in the best interests of the Partners of the Partnership.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 00–20096 Filed 8–8–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43109; File No. SR–OPRA–00–06]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan Establishing a Pilot to Permit Fee-Exempt Access to Market Data

August 2, 2000.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 26, 2000, the Options Price Reporting Authority (''OPRA''),[2] 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 (''OPRA Plan''). The proposed OPRA Plan amendment would establish a two-year pilot period, scheduled to end on May 31, 2002, during which off-floor market maker members of participant exchanges will be permitted to access options market data on a fee-exempt basis. The proposed amendment also would codify current practice by providing that during this same two-year period, floor members of participant exchanges and the participant exchanges themselves are also permitted to access options market data on a fee-exempt basis. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

1. Description and Purpose of the Amendment

OPRA is proposing amendments to the OPRA Plan to establish a two-year pilot period, scheduled to expire on May 31, 2002, during which off-floor market maker members of participant exchanges would be permitted to access options market data on a fee-exempt basis. The proposed amendment also would codify current practice by providing that during this same two-year period, floor members of participant exchanges and the participant exchanges themselves would also be permitted to access options market data on a fee-exempt basis. The text of the proposed OPRA Plan amendment is available at the Commission and at OPRA.

The purpose of the proposed OPRA Plan amendment is to clarify the conditions under which members of floor-based exchanges and their counterparts on electronic exchanges, as well as the exchange themselves, are permitted to access options market information over the OPRA system without thereby becoming liable to pay OPRA's subscriber fees.

Currently, all persons, including members of participant exchanges, who have access to OPRA information at their places of business are subject to OPRA fees. However, members of participant exchanges who function as brokers or market markers on exchange floors and who have access to OPRA information over exchange-provided terminals on the floors are not subject to OPRA fees, and the participant exchanges themselves are not required to pay OPRA fees in respect of these terminals. On the ISE, market-making functions traditionally performed by exchange members on exchange floors are instead performed by exchange members acting as specialists or market-makers from trading desks at off-floor locations. Considerations of competitive fairness suggest either that these off-floor specialists and market markers should be exempt from OPRA fees so long as their floor-based counterpart are not subject to these fees, or that all such specialists and market-makers, both on-floor and off-floor, should be subject to OPRA fees. Although OPRA has not yet decided which of these two alternative approaches should be adopted as a permanent provision of the OPRA Plan, to provide equal treatment for the ISE, OPRA proposes to implement a two-year pilot program during which the market maker members of ISE (and similar off-floor market makers of any

[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2 thereunder. *See* Securities Exchange Act Release No. 17638 (Mar. 18, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The six exchanges that are participants to the OPRA Plan are the American Stock Exchange (''Amex''); the Chicago Board Options Exchange (''CBOE''); the International Securities Exchange (''ISE''); the New York Exchange (''NYSE''); the Pacific Exchange (''PCX''); and the Philadelphia Stock Exchange (''Phlx'').

other participant exchanges, including any other new participant exchange, that operates an electronic facility for the trading of options) would be permitted to access options market data on a fee-exempt basis. [3]

To accomplish this, OPRA is proposing to add new paragraph (vi) to Section VII(d) of the OPRA Plan that would provide an exemption from OPRA device charges for terminals used exclusively by members of participant exchanges who function as brokers or market makers on traditional exchange trading floors, or who function as specialists or other market makers on electronic exchanges or trading facilities. Although exempt from OPRA device charges, members who control data terminals located at their own places of business would be required to sign OPRA's professional subscriber agreements, which contain prohibitions on the retransmission of market data to unauthorized persons.

OPRA also proposes to add new subsection (e) to Section V of the OPRA Plan, which for the duration of the two-year pilot will codify OPRA's current practice whereby the participant exchanges themselves are entitled to access OPRA information at their own places of business without being subject to OPRA's information fees, provided that the information is used by the exchanges in connection with the operation, surveillance or regulation of their respective exchange markets. This entitlement extends to any other self-regulatory organization that performs regulatory or surveillance functions for a participant exchange.

II. Implementation of the Plan Amendment

Pursuant to paragraph (c)(3)(i) of Rule 11Aa3–2,[4] OPRA designates this amendment 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, thereby qualifying for effectiveness upon filing. 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),[5] 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.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed OPRA Plan amendment that are filed with the Commission, and all written communications relating to the proposed OPRA Plan amendment 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 No. SR–OPRA–00–06 and should be submitted by August 30, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

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[3] OPRA does not propose to extend this exemption to members of electronic exchanges who function as brokers but not as specialists or market makers. Unlike traditional floor-broker members, who are limited in number and represent customer orders typically received in the first instance at the members' off-floor locations where OPRA-enabled terminals are subject to OPRA fees, electronic access members may be unlimited in number, and will more likely receive orders directly from customers. In these respects, electronic access members perform a variety of functions, and they may be unlimited in number. One possible function is the direct receipt of customer orders, which is comparable to the function performed by those persons who today constitute the majority of OPRA's professional subscribers and provide the greater part of OPRA's total revenues.

[4] 17 CFR 240.11Aa3–2(c)(3)(i).

[5] 17 CFR 240.11Aa3–2(c)(2).

[6] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43108; File No. SR–CBOE–00–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Amending the Exchange's Flexible Exchange Options Rules

August 2, 2000.

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 as amended on July 27, 2000, the Chicago Board Options Exchange, Inc. (''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 prepared by the CBOE.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The CBOE proposes to amend Exchange Rule 24A.4 to specifically provide for the listing and trading of Flexible Exchange options (''FLEX Option'') on all of the indices, both broad-based and narrow-based indices, on which the Exchange lists and trades Non-FLEX options. The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the 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. The CBOE has prepared summaries, set for in sections

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

[2] 17 CFR 240.19b–4.

[3] On July 27, 2000, the CBOE filed an amendment to the proposed rule change (''Amendment No. 1''). *See* Letter to Heather Traeger, Attorney, Division of Market Regulation, Commission, from Jaime Galvan, Attorney, Legal Division, CBOE, dated July 26, 2000. In Amendment No. 1, the CBOE represents that when it files a proposed rule change to list a trade a new Non-FLEX index option, it will also proposed to list and trade the FLEX index options in the same file.