11. Each Insurance Products Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (for these purposes, the persons having a voting interest in the shares of the Insurance Products Funds). In particular, each such Insurance Products Fund either will provide for annual shareholder meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although none of the Insurance Products Funds shall be one of the trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, each Insurance Products Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of Board members and with whatever rules the Commission may promulgate with respect thereto.

12. If and to the extent that Rules 6e–2 or 6e–3(T) under the 1940 Act is amended, or Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed and shared funding, on terms and conditions materially different from any exemptions granted in the order requested in the application, then the Insurance Products Funds, the Participating Insurance Companies and Qualified Plans, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, or proposed Rule 6e–3 as adopted, to the extent such Rules are applicable.

13. The Adviser (or any other investment adviser of an Insurance Products Fund), the Participating Insurance Companies and the Qualified Plans, at least annually, shall submit to each Board such reports, materials or data as each Board may reasonably request so that such Boards may fully carry out the obligations imposed upon them by the conditions stated in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Boards. The obligations of the Adviser (or any other investment adviser of an Insurance Products Fund), the Participating Insurance Companies and Qualified Plans to provide these reports, materials and data upon reasonable request of a Board shall be a contractual obligation of the Adviser (or any other investment adviser of an Insurance Products Fund), the Participating Insurance Companies and the Qualified Plans under the agreements governing their participation in the Insurance Products Funds.

14. If a Qualified Plan or Plan participant shareholder should become an owner of 10% or more of the issued and outstanding shares of an Insurance Products Fund, such Plan will execute a participation agreement with such Fund, which includes the conditions set forth herein to the extent applicable. A Qualified Plan or Plan participant will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the shares of any Insurance Products Fund.

Conclusion

For the reasons summarized above, Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46032; File No. SR–OPRA–2002–02]

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

June 5, 2002.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 31, 2002, 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 extend the pilot period during which off-floor market maker members of participant exchanges will be permitted to access options market data on a fee-exempt basis for an additional two years, until May 31, 2004, or such later date as OPRA may subsequently determine. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

I. Description and Purpose of the Amendment

Section VII(d)(vi) of the OPRA Plan provides that during a pilot period, the members of a floor-based exchange that is a party to the OPRA Plan who act in the capacity of brokers or dealers on the party's trading floor, and their counterparts on an electronic exchange that is a party to the OPRA Plan, are permitted to access options market information over the OPRA system without thereby becoming liable to pay OPRA's subscriber fees. In addition, Section VII(d)(vi) of the OPRA Plan provides that the pilot period will end ''on May 31, 2002, or on such later date as OPRA may determine.'' The purpose of the proposed amendment is to reflect the determination by OPRA to extend the expiration of the pilot period provided for in Section VII(d)(vi) of the OPRA Plan for an additional two years, until May 31, 2004, or such later date as OPRA may subsequently determine.

This temporary exemption from subscriber fees was added to the OPRA Plan two years ago, when ISE was about to begin trading options in an entirely electronic market.[3] The purpose of the exemption was to provide equal treatment for that exchange and its specialists and market-makers (and the off-floor specialists and market makers of any other electronic exchange or facility that may in the future be operated by an OPRA participant) so long as the floor-based counterparts of such members of electronic exchanges or facilities are not subject to subscriber fees. At the time the temporary fee exemption was adopted, OPRA had not decided on a permanent basis whether it would continue to exempt floor-based and off-floor specialists and market makers from OPRA fees, or whether it

[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 five participants to the OPRA Plan that operate an options market are the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc. (''CBOE''), the International Securities Exchange LLC (''ISE''), the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. The New York Stock Exchange, Inc. 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).

[3] *See* Securities Exchange Act Release No. 43109 (August 2, 2000), 65 FR 48769 (August 9, 2000).

would make all such persons subject to OPRA fees.

OPRA still has not made a final decision concerning the permanent application of subscriber fees to floor-based members of participants or to their counterparts on electronic exchanges or facilities. Accordingly, in order to continue to provide equal treatment to floor-based and electronic options markets and their members, OPRA has determined to continue this temporary exemption from OPRA fees for an additional two years, expiring on May 31, 2004, or on such later date as OPRA may subsequently determine. The effect of this is also to extend for an additional two years the fee exemption applicable to parties to the OPRA Plan that is provided for in Section V(f) of the OPRA Plan, because that exemption applies by its terms for the duration of the pilot period described in Section VII(d)(vi) of the OPRA Plan. The determination by OPRA reflected in this filing makes no change to any of the terms of these fee exemptions; it only extends the pilot period during which they apply.

II. Implementation of the OPRA 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 sixty 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 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–2002–02 and should be submitted by July 3, 2002.

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

Margaret H. McFarland,

Deputy Secretary.

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[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. 34–46036; File No. SR–Amex–2002–21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments Nos. 1, 2, 3 and 4 Thereto by the American Stock Exchange LLC Amending Exchange Rule 175(c) to Permit Limited Side-by-Side Trading and Integrated Market Making

June 5, 2002.

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 March 18, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on March 22, 2002.[3] The Exchange filed Amendment No. 2 to the proposed rule change on March 27, 2002.[4] The Exchange filed Amendment No. 3 to the proposed rule change on April 5, 2002.[5] The Exchange filed Amendment No. 4 to the proposed rule change on June 3, 2002.[6] The Commission is publishing this notice, as amended, 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 Exchange proposes to amend Exchange Rules 174, 175, 193, 900, and 958 to (1) permit affiliates of Amex specialists in securities admitted to dealings on an unlisted basis to be a specialist, ROT or other registered market maker in the related options provided there are Exchange-approved information barriers between the stock specialist and the options specialist, ROT or other registered options market maker pursuant to Exchange Rule 193 and (2) provide that specified ETFs or TIRs and their related options may be traded by the same specialist, specialist firm, and the approved persons of such specialist or specialist firm without

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

[2] 17 CFR 240.19b–4.

[3] On March 22, 2002, the Exchange filed a Form 19b–4, which replaced the original filing in its entirety (''Amendment No. 1''). In Amendment No. 1, the Exchange made certain clarifications to the rule text. In particular, the Exchange removed the language ''on another exchange'' from the proposed rule text of Amex Rule 175(c) to clarify that a specialist registered in a stock admitted to dealings on an unlisted basis may act as a specialist, Registered Options Trader (''ROT''), or registered market maker on the Amex as well as on another exchange.

[4] On March 27, 2002, the Exchange filed an amended Form 19b–4 (''Amendment No. 2''). In Amendment No. 2, the Exchange deleted paragraph (l) to the ''Guidelines for Specialists' Specialty Stock Options Transactions Pursuant to Rule 175,'' because it is redundant with Amex Rule 175(c). In addition, the Exchange corrected a typographical error in the proposed rule text, and amended its statutory basis for the proposed rule change.

[5] On April 5, 2002, the Exchange filed a third amended Form 19b–4 (''Amendment No. 3''). In Amendment No. 3, the Exchange proposed to amend Exchange Rule 193 to clarify that, if an exemption is available under proposed Exchange Rule 175(c): (1) A person associated with an Amex options specialist may act as a Registered Equity Trader or Registered Equity Market Maker in the underlying stock, and (2) a person associated with an Amex stock specialist may act as a ROT in the related stock.

[6] On June 3, 2002, the Exchange filed a fourth amended Form 19b–4 (''Amendment No. 4''). In Amendment No. 4, the Exchange amended the proposed rule change to specify that Exchange-Traded Fund Shares (''ETFs'') and Trust Issued Receipts (''TIRs'') and their related options may be traded by the same specialist, specialist firm, and the approved persons of such specialist or specialist firm without information or physical barriers. Accordingly, Amendment No. 4 proposes to permit integrated market making and side-by-side trading in specified ETFs, TIRs, and their related options. In Amendment No. 4 the Exchange also proposed to permit ETF/TIR specialists and their approved persons to trade the overlying options without reference to the requirements of Amex Rule 175(b) or the Guidelines to Amex Rule 175. The Exchange also proposed to amend Amex Rule 174 to require specialists registered in a stock and overlying option to disclose on request to all participants in the stock or options trading crowd information regarding limit orders in either the stock or options limit order book. The Exchange also proposed to amend Amex Rules 900 and 958 to permit side-by-side trading and integrated market making of ETFs and TIRs and their related options.