



## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-74165; File No. SR-EDGX-2015-04)

January 28, 2015

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Make Non-Substantive Amendments and Clarifications to the Fee Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 16, 2015, EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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 Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. 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 Exchange filed a proposal to amend its fees and rebates applicable to Members<sup>5</sup> of

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

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

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

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

<sup>5</sup> The term “Member” is defined as “any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a “member” of the Exchange as that term is

the Exchange pursuant to EDGX Rule 15.1(a) and (c) (“Fee Schedule”) to make several non-substantive amendments and clarifications as part of its migration onto the same technology platform as its affiliated exchanges, BATS Exchange, Inc. (“BZX”) and BATS Y-Exchange, Inc. (“BYX”, collectively with BZX, “BATS”). The proposed rule change does not amend any existing fees or rebates, nor do they alter the manner in which the Exchange assesses fees or calculates rebates.

The text of the proposed rule change is available at the Exchange’s website at <http://www.batstrading.com>, at the principal office of the Exchange, 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, the Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

Earlier this year, the Exchange and its affiliate, EDGA Exchange, Inc. (“EDGA”) received approval to effect a merger (the “Merger”) of the Exchange’s parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS (together with

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defined in Section 3(a)(3) of the Act.” See Exchange Rule 1.5(n).

BATS, EDGA and EDGX, the “BGM Affiliated Exchanges”).<sup>6</sup> In the context of the Merger, the BGM Affiliated Exchanges are working to migrate EDGX and EDGA onto the BATS technology platform, and align certain system functionality and rules, retaining only intended differences between the BGM Affiliated Exchanges. As a result of these efforts, the Exchange proposes to make several non-substantive amendments and clarifications to its Fee Schedule as part of its migration onto the BATS technology platform. The Exchange notes that none of these changes substantively amend any fee or rebate, nor do they alter the manner in which the Exchange assesses fees or calculates rebates. Specifically, the Exchange is proposing the following:

- To eliminate the lead-in text that reads, “Download in pdf format. Rebates & Charges for Adding, Removing or Routing Liquidity per share for Tape A, B, & C securities<sup>1</sup>” and replace it with the heading, “Transaction Fees.”
- Replace references to the term “liquidity flag” or “flag” with the term “fee code” throughout the Fee Schedule.
- Amend the bullets under the renamed section, Transactions to: (i) clarify that the rates apply to a Member’s transactions by adding the term “transactions”; and (ii) add a statement to clarify that, unless otherwise noted, all routing fees and rebates are for removing liquidity from the destination venue.
- Rename the section entitled, “Liquidity Flags” as “Fee Codes and Associated Fees.” The Exchange also proposes to: (i) clarify under this section which fee codes apply to removing or adding liquidity on EDGX; (ii) amend certain terminology to ensure consistent phrasing and to

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<sup>6</sup> See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGX-2013-43; SR-EDGA-2013-34).

align with similar language included in the BATS fee schedules; and (iii) amend: (a) fee code O to clarify that it applies to orders routed to the listing market opening or re-opening cross; (b) fee code R to clarify that the order is re-routed by the New York Stock Exchange, Inc. (“NYSE”);<sup>7</sup> (c) fee codes Q, T, and Z to clarify that the order must be routed to a non-exchange destination;<sup>8</sup> (d) delete fee code PI; (e) amend fee code RP to reflect a change to the name of the Route Peg order to the Supplemental Peg order;<sup>9</sup> and (f) fee codes BY, RR, and SW to reflect the routing strategies that are to be added or removed upon migration of the Exchange onto BATS technology.<sup>10</sup>

- Amend fee code MM to clarify that, in addition to MidPoint Match Orders, the fee code is available to orders with a Hide Not Slide instruction or a Non-Displayed instruction that add liquidity at the midpoint of the NBBO. The Exchange also proposes to add footnote 11 to the Fee Schedule to clarify that an order with a Non-Displayed instruction will receive fee code MM where it executes against an order type that receives fee code MT. The order types eligible to receive fee code MT are discussed below.

- Amend fee code MT to clarify that, in addition to MidPoint Match orders, the fee code is available to orders with a Hide Not Slide Instruction and orders with a Non-Displayed and Post

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<sup>7</sup> Previously, the Exchange would route re-routable orders to other exchanges in addition to the NYSE. This change is designed to reflect that the Exchange currently routes re-routable orders only to the NYSE.

<sup>8</sup> The Exchange notes that the routing strategies listed in the description of fee codes Q, T and Z route orders to both exchange and non-exchange destinations. The proposed rule change is intended to clarify that fee codes Q, T and Z will only be appended to an order when routed to a non-exchange destination pursuant to one of the listed routing strategies. Orders routed to an exchange destination pursuant to one of the listed routing strategies will include a different fee code.

<sup>9</sup> See Securities Exchange Act Release Nos. 74023 (January 9, 2015), 80 FR 2163 (January 15, 2015) (SR-EDGX-2015-03); and 74028 (January 9, 2015), 80 FR 2125 (January 15, 2015) (SR-EDGA-2015-03).

<sup>10</sup> Id.

Only instruction that remove liquidity at the midpoint of the NBBO.

- Amend Flag HA to remove references to MidPoint Match orders, as they are included in Flags MM and MT, as described above.
- Amend the definitions of Average Daily Volume (“ADV”) and Total Consolidated Volume (“TCV”) to be substantially similar to the definitions for these terms in the BATS fee schedules. The only differences in the definitions are that the Exchange includes routed volume in its calculation of ADV and will exclude from its calculation of ADV and TCV shares added, removed, or routed on each trading day from January 12, 2015 up to and including January 16, 2015.<sup>11</sup>
- Amend the section entitled General Notes to mirror a similar section within the BATS fee schedules by: (i) deleting the first three bullets regarding added flags, removal flags, and routed flags because, it is redundant as the description of each fee code indicates whether is it for added, removed or routed orders; (ii) adding a bullet stating that rebates and charges for adding, removing or routing liquidity are listed as per share rebates and charges; and (iii) making certain non-substantive changes to the current fifth bullet.
- Amend footnote 1 entitled Add Volume Tiers to amend the description under the tier’s required criteria to align with similar description in the BATS fee schedules. The Exchange also proposes to amend the required criteria for Mega Tier 1 and the Investor Tier to clarify that a Member have an “added liquidity” as a percentage of “added plus removed liquidity” of at least 85% and not a ratio as this portion of the criteria is incorrectly categorized as a ratio.

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<sup>11</sup> After January 16, 2015, the Exchange intends to submit a rule filing to the Commission to remove the provision to exclude from its calculation of ADV and TCV shares added, removed, or routed on each trading day from January 12, 2015 up to and including January 16, 2015 from its definitions of TCV and ADV.

- Amend footnote 2 to clarify that the Tape B Step Up Tier to remove a redundant reference to “Flags B and 4” and amend the description under the tier’s required criteria
- Amend footnotes 3 and 7 to amend the description under each tier’s criteria to align with similar descriptions in the BATS fee schedules.
- Amend footnote 4 entitled Retail Order Tier to remove the paragraph describing how a Member may qualify for a higher rebate or lower fee for orders utilizing fee code ZA as it is redundant and unnecessary given the current fifth bullet under the General Notes section of the Fee Schedule specifically states that to the extent a Member qualifies for higher rebates and/or lower fees than those provided by a tier for which such Member qualifies, the higher rebates and/or lower fees shall apply.

#### Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on January 16, 2015.<sup>12</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>13</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>14</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order

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<sup>12</sup> The Exchange notes that the date of the Fee Schedule was amended to January 16, 2015 in a previously filed proposed rule change. See SR-EDGX-2015-01 (filed January 16, 2015).

<sup>13</sup> 15 U.S.C. 78f.

<sup>14</sup> 15 U.S.C. 78f(b)(4).

flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members.

The Exchange believes that the non-substantive clarifying changes to its Fee Schedule are reasonable because they are designed to provide greater transparency to Members with regard to how the Exchange assesses fees and provides rebates. The Exchange notes that none of the proposed non-substantive clarifying changes are designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. In particular, the proposed amendments to fee codes MM and MT are reasonable and equitable because they conform to existing practice and do not modify the fees that the Exchange charges its Members for orders yielding these fee codes. The Exchange has historically in practice and will continue to apply fee codes MM and MT as described above when determining the applicable fee under its pricing structure. The Exchange believes that Members would benefit from clear guidance in its Fee Schedule that describes the manner in which the Exchange would assess fees and calculate rebates. The proposed rule change is also designed, in part, to align terminology and definitions with that included in the current BATS fee schedules in order to use consistent fee schedules across the BGM Affiliated Exchanges. These changes to the Fee Schedule are intended to provide greater harmonization between Exchange, BYX, and BZX fee schedules and make the Fee Schedule clearer and less confusing for investors, thereby eliminating potential investor confusion. As such, the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange reiterates that the proposed rule change is being proposed in the context of the technology integration of the BGM Affiliated Exchanges and that the changes are entirely non-substantive. The proposed changes are not designed to have any impact on competition. Rather, they are intended to provide greater harmonization between Exchange, BYX, and BZX fee schedules and make the Fee Schedule clearer and less confusing for investors. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deemed fee structures to be unreasonable or excessive.

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) of the Act<sup>15</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>16</sup> At any time within 60 days of the filing of the 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..

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

<sup>16</sup> 17 CFR 240.19b-4(f).

#### 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGX-2015-04 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 EDGX-2015-04. This file number should be included on the subject line if e-mail 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 website (<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 website 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 the 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 EDGX-2015-04, and should be submitted on or before [INSERT DATE 21 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

Jill M. Peterson,  
Assistant Secretary.

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