SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91260; File No. SR-CboeEDGX-2021-013)

March 5, 2021

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on March 1, 2021, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to amend the fee schedule applicable to Members and non-Members of the Exchange pursuant to EDGX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange's Office of the Secretary, 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

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

2 17 CFR 240.19b-4.

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 aspects of such statements.

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

1. Purpose

The Exchange proposes to amend its fee schedule in connection with its standard removing liquidity fees and Add/Remove Volume Tiers. The Exchange proposes to implement the proposed change to its fee schedule on March 1, 2021.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 19% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a "Maker-Taker" model whereby it pays credits to members that provide liquidity and assesses fees to those that remove liquidity. The Exchange's fee schedule

[3] See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (February 24, 2021), available at https://markets.cboe.com/us/equities/market_statistics/.

sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that add liquidity and assesses a fee of $0.00270 per share for orders that remove liquidity. For orders priced below $1.00, the Exchange provides a standard rebate of $0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of Dollar Value for orders that remove liquidity. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

Standard Removing Liquidity Fee

As stated above, the Exchange currently provides a standard fee of $0.00270 per share for liquidity removing orders (i.e., those yielding fee codes N,[4] W,[5] 6,[6] BB,[7] and ZR[8]) in securities priced at or above $1.00. Orders in securities priced below $1.00 that remove liquidity are assessed a fee of 0.30% of the dollar value. The Exchange now proposes to increase the current

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4 Appended to orders that remove liquidity from EDGX (Tape C) and charges a fee of $0.00270 per share.

5 Appended to orders that remove liquidity from EDGX (Tape A) and charges a fee of $0.00270 per share.

6 Appended to orders that remove liquidity from EDGX, pre and post market (All Tapes) and charges a fee of $0.00270 per share.

7 Appended to orders that remove liquidity from EDGX (Tape B) and charges a fee of $0.00270 per share.

8 Appended to retail orders that remove liquidity from EDGX and charges a fee of $0.00270 per share.

standard fee of $0.00270 per share to $0.00280 per share for orders that remove liquidity for securities priced at or above $1.00. Orders that remove liquidity in securities priced below $1.00 would continue to be assessed a fee of 0.30% of the dollar value. Although this proposed standard fee for liquidity removing orders is higher than the current base rate for such orders, the proposed fee is in line with similar fees for liquidity removing orders in place on other exchanges.[9]

Growth Tier 2 & Non-Displayed Step-Up Tier

In addition to the standard fees and rebates, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Currently, the Exchange provides for certain Add/Remove Volume Tiers under footnote 1 of the Fee Schedule. More specifically, the Add/Remove Volume Tiers provide for seven different volume tiers that offer enhanced rebates on Members' orders yielding fee codes "B"[10],

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9 E.g., the Nasdaq base fee rate of $0.0030 for liquidity removing orders in securities priced at or above $1.00. See https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.

10 Appended to orders that add liquidity to EDGX (Tape B) and offers a rebate of $0.00160 per share.

"V"[11], "Y"[12], "3"[13] and "4"[14], where a Member reaches certain volume-based criteria offered in each tier. Two of these tiers are "Growth Tiers", which are designed to encourage growth in order flow by providing specific criteria in which Members must increase their relative liquidity each month over a predetermined baseline. Growth Tier 2, for example, provides an enhanced rebate of $0.0030 on qualifying orders (i.e., B, V, Y, 3 and 4) where a Member has (1) a Retail Step-Up Add TCV[15] (i.e., yielding fee code ZA)[16] from January 2021 that is greater than or equal to 0.10%; (2) an add ADV[17] greater than or equal to 0.50% of the TCV; and (3) removes an ADV of greater than or equal to 0.80% of the ADV. The Exchange now proposes to amend the third criteria of the Growth Tier 2 to provide for Members who remove an ADV of greater than or equal to 0.75% of the ADV, rather than 0.80%.

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11 Appended to orders that add liquidity to EDGX (Tape A) and offers a rebate of $0.00160 per share.

12 Appended to orders that add liquidity to EDGX (Tape C) and offers a rebate of $0.00160 per share.

13 Appended to orders that add liquidity to EDGX pre and post market (Tape A or C) and offers a rebate of $0.00160 per share.

14 Appended to orders that add liquidity to EDGX pre and post market (Tape B) and offers a rebate of $0.00160 per share.

15 "Step-Up Add TCV" means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV. "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. "ADAV" means ADAV means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

16 Appended to Retail Orders that add liquidity to EDGX and offers a rebate of $0.0032 per share.

17 "ADV" means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

Additionally, under the Add/Remove Volume Tiers in footnote 1 of the Fee Schedule the Exchange also provides for the Non-Displayed Step-Up Tier, which offers enhanced rebates on Members' orders yielding fee codes "DM"[18], "HA"[19], "MM"[20] and "RP"[21] where a Member reaches certain required volume-based criteria offered in each tier. The Non-Displayed Step-Up Tier provides an enhanced rebate of $0.0025 where a Member has: (1) a Step-Up Add TCV from January 2021 greater than or equal to 0.10%; (2) adds an ADV greater than or equal to 0.50% of the TCV; and (3) removes an ADV of greater than or equal to 0.80% of the TCV. The Exchange now proposed to amend the third criteria of the Non-Displayed Step-Up Tier to provide for Members who remove an ADV of greater than or equal to 0.75% of the ADV, rather than 0.80%.

Both the Growth Tier 2 and the Non-Displayed Step-Up Tier, as amended, offer the same three-pronged criteria and are designed to incentivize overall order flow, particularly by offering enhanced rebates for both displayed (i.e., B, V, Y, 3 and 4) and non-displayed (DM, HA, MM and RP) orders if a Member meets the different, incrementally more difficult criteria as amended in Growth Tier 2 and Non-Displayed Step-Up Tier. Particularly, the proposed amendment to the third prong of the criteria is designed to encourage a Member to increase liquidity removing volume.

Remove Volume Tier

Pursuant to footnote 1 of the Fee Schedule, the Exchange offers a Remove Volume Tier

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18 Appended to orders that add liquidity using MidPoint Discretionary order within discretionary range and are provided a rebate of $0.00100.

19 Appended to non-displayed orders that add liquidity and are provided a rebate of $0.00100.

20 Appended to non-displayed orders that add liquidity using Mid-Point Peg and are provided a rebate of $0.00100.

21 Appended to non-displayed orders that add liquidity using Supplemental Peg and are provided a rebate of $0.00100.

(Tier 1) that provides Members an opportunity to receive a reduced fee of $0.0026 for liquidity removing orders that yield fee codes BB, N, and W. To qualify for the current Remove Volume Tier, a Member must have an ADAV[22] of greater than or equal to 0.25% of the TCV with displayed orders that yield fee codes B, V or Y. The Exchange now proposes to incrementally increase the reduced fee to $0.0027 based on the proposed standard fee change. Additionally, the Exchange proposes to offer an alternative qualification for the Remove Volume Tier for a Member that adds Retail Order ADV (i.e., yielding fee code ZA) of greater than or equal to 0.45% of the TCV. The proposal is designed to encourage a Member to increase Retail Order liquidity removing volume.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[23] in general, and furthers the requirements of Section 6(b)(4),[24] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient.

In particular, the Exchange believes that the proposed amendment to increase the standard removing liquidity fee is reasonable, equitable and non-discriminatory because the proposed change represents a modest fee increase and such fee is equally applicable to all

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22 ADAV means average daily volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

23 15 U.S.C. 78f.

24 15 U.S.C. 78f(b)(4).

liquidity removing orders and thus is also equally applicable to all Members of the Exchange. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a relativel [sic] small percentage of the overall market. Moreover, the proposed standard fee for liquidity removing orders is still lower than that offered at other exchanges for similar transactions.[25]

The Exchange believes the proposed changes to Growth Tier 2, the Non-Displayed Step-Up Tier, and the Remove Volume Tier are reasonable because they either amend an existing opportunity or add an alternative opportunity for Members to receive an enhanced rebate or reduced fee on qualifying orders by means of overall order flow, including liquidity adding and removing orders. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[26] including the Exchange,[27] and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered

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25 See supra note 9.

26 See e.g., Nasdaq PSX Price List, Rebate to Add Displayed Liquidity (Per Share Executed), and Rebate to Add Other Non-Displayed Liquidity, which provide rebates to members for adding displayed and non-displayed liquidity over certain thresholds of TCV ranging between $0.00075 and $0.00305, available at http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2; and Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 1, Add Volume Tiers, which provides similar incentives for displayed and non-displayed liquidity and offers rebates ranging between $0.0018 and $0.0031.

27 See generally, Cboe EDGX U.S. Equities Exchange Fee Schedule, Footnote 1, Add Volume Tiers.

pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.[28]

Moreover, the Exchange believes the proposed tiers are a reasonable means to encourage overall growth in Members' overall order flow to the Exchange and to incentivize Members to continue to provide liquidity adding and liquidity removing to the Exchange by offering them a different or additional opportunity than those opportunities currently under the Add/Remove Volume Tiers to receive an enhanced rebate on qualifying orders. The Exchange believes that the proposed tiers will generally benefit all market participants by incentivizing continuous liquidity and thus, deeper more liquid markets as well as increased execution opportunities. Indeed, the Exchange notes that greater add volume order flow may provide for deeper, more liquid markets and execution opportunities, and greater remove volume order flow may increase transactions on the Exchange, which the Exchange believes incentivizes liquidity providers to submit additional liquidity and execution opportunities, thus, providing an overall increase in price discovery and transparency on the Exchange.

Further, the Exchange believes that the proposed tier changes are reasonable as they do not represent a significant departure from the current criteria or enhanced rebates currently offered in the Fee Schedule. First, the Exchange believes that modifying third criteria in Growth Tier 2 and the Non-Displayed Step-Up Tier is reasonably designed to ease the current criteria and therefore incentivize Members to achieve the enhanced rebate. Second, the Exchange believes that the increase to the Remove Volume Tier is reasonable as the fee increase is

[28] See supra note 3.

incremental to the proposed change to the standard liquidity removing fee. Further, the proposed additional criteria option to achieve the Remove Volume Tier in is reasonable as it would incentivize Members to meet certain liquidity adding Retail Order thresholds.

The Exchange believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members will continue to be eligible for the Growth Tier 2, Non-Displayed Step-Up Tier, and Remove Volume Tier, as amended. All Members will have the opportunity to meet the three tiers' criteria and will receive the proposed corresponding enhanced rebates or reduced fee for their respective qualifying orders if they meet such criteria. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for the proposed tiers. While the Exchange has no way of predicting with certainty how the proposed tier will impact Member activity, the Exchange anticipates that at least three Members will be able to compete for and reach the amended criteria in Growth Tier 2 and the Non-Displayed Step-Up Tier, and at least six Members will be able to compete for and reach the amended criteria in the Remove Volume Tier. The Exchange anticipates that multiple Member types will compete to reach the proposed tiers, broker-dealers and liquidity providers, each providing distinct types of order flow to the Exchange to the benefit of all market participants. The Exchange also notes that proposed tiers will not adversely impact any Member's pricing or ability to qualify for other reduced fee or enhanced rebate tiers. Should a Member not meet the proposed criteria under either of the proposed tiers, the Member will merely not receive that corresponding enhanced rebate.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purpose of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 15 other equities exchanges and off-exchange venues and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 19% of the market share.[29] Therefore, no exchange possesses significant pricing power in the execution of order

[29] See supra 3.

flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[30] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'….".[31] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change to the standard removing liquidity fee applies to all

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30 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

31 See NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

liquidity removing orders equally, and thus applies to all Members equally. Similarly, the proposed tier changes apply to all Members equally in that all Members are eligible for the amended Growth Tier 3, Non-Displayed Step-Up Tier, and Remove Volume Tier, and have a reasonable opportunity to meet the tiers' criteria and will all automatically and uniformly receive the corresponding enhanced rebate on their respective qualifying orders if such criteria is met. Additionally, the proposed changes to the tier criteria are designed to attract additional overall order flow to the Exchange. The Exchange believes that the amended tier criteria would incentivize market participants to grow their overall order flow submitted to the Exchange, both liquidity adding and removing order flow, bringing with it improved price transparency. The Exchange believes greater overall order flow and pricing transparency benefits all market participants on the Exchange by providing more trading opportunities, enhancing market quality, and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem, which benefits all market participants.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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[32] and paragraph (f) of Rule 19b-4[33] thereunder. 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. If the

32 15 U.S.C. 78s(b)(3)(A).

33 17 CFR 240.19b-4(f).

Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change 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 e-mail to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2021-013 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-CboeEDGX-2021-013. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2021-013 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier
Assistant Secretary

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34 17 CFR 200.30-3(a)(12).