

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-63821; File No. SR-EDGX-2011-02)

February 2, 2011

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. 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 25, 2011, the EDGX Exchange, Inc. (the “Exchange” or the “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 self-regulatory organization. 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 proposes to amend its fees and rebates applicable to Members<sup>3</sup> of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange’s Internet website at <http://www.directedge.com>.

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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments

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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> A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

In SR-EDGX-2011-01<sup>4</sup>, the Exchange filed for immediate effectiveness a rule filing to amend Rule 11.9 to add its routing strategies, which were contained in its fee schedule, to the rule and to introduce additional routing strategies to the rule. Two of those strategies that the Exchange added to Rules 11.9(b)(3)(q) and (r) were the SWPA/SWPB routing strategies. Under the SWPA strategy, an order would check the System for available shares and then would be sent to Protected Quotations and only for displayed size. Under this strategy, orders would not have to contain sufficient size to execute against all Protected Quotations (emphasis added). If any shares remain unexecuted, such remainder will be cancelled back to the User. Under the SWPB routing strategy, an order would check the System for available shares and then is sent to Protected Quotations and only for displayed size. Under this strategy, orders would have to contain sufficient size to execute against all Protected Quotations. The entire SWPB order will be cancelled back to the User immediately if at the time of entry there is insufficient quantity in the SWPB order to fulfill the displayed size of all Protected Quotations.

In this filing, the Exchange proposes to add the corresponding flag for the use of the SWPA/SWPB strategies, SW, to its fee schedule and assign it a fee of \$0.0031 per share for removal of liquidity from all market centers except from the New York Stock Exchange (NYSE). For any SWPA/SWPB orders that remove liquidity from the NYSE, the Exchange will

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<sup>4</sup> See SR-EDGX-2010-01 (January 21, 2011).

continue to assign Flag D and charge a fee of \$0.0023 per share. This is clarified in proposed footnote 8 to the fee schedule. The lower fee charged for removing liquidity from the NYSE is consistent with the processing of similar routing strategies by EDGX's competitors. Secondly, of the major market centers, the NYSE fees for removing liquidity itself are lower, and EDGX is thus able to pass back such lower rates to its Members.

EDGX Exchange proposes to implement these amendments to the Exchange fee schedule on January 25, 2011.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>6</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 fee of \$0.0031 per share is an equitable allocation of reasonable dues, fees, and other charges in that this order type is limited in its interaction with other Member orders as it only executes to the extent a Member order is at the Protected Quotation. As a result, compared to other routing strategies that always sweep the EDGX book before routing out, such as ROBA (fee of \$0.0025 per share), the SWPA/SWPB fees are higher. Secondly, the fee is equitable when compared to other similar type strategies of EDGX's competitors. As noted in SR-EDGX-2011-01, the SWPA/SWPB routing strategies are based on Nasdaq's MOPP strategy and BATS Parallel T routing strategy.<sup>7</sup> Nasdaq charges \$0.0035 per share for MOPP orders and BATS charges \$0.0033 per share for such orders.

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<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> See, e.g., NASDAQ Rule 4758 and BATS Rule 11.13.

EDGX's rate is even more competitive than these. The Exchange also 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. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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) of the Act<sup>8</sup> and Rule 19b-4(f)(2)<sup>9</sup> thereunder. At any time within 60 days of the filing of such 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>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 19b-4(f)(2).

#### 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-2011-02 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-EDGX-2011-02. 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,<sup>10</sup> 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.

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<sup>10</sup> The text of the proposed rule change is available on Exchange's website at <http://www.directedge.com>, on the Commission's website at <http://www.sec.gov>, at EDGX, and at the Commission's Public Reference Room.

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 SR-EDGX-2011-02 and should be submitted on or before [insert date 21 days after publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Cathy H. Ahn  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).