

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70363; File No. SR-EDGX-2013-33)

September 10, 2013

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 August 30, 2013, 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 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 Fee Schedule to: (i) add the Tape B Step Up Tier; (ii) add the Mega Tier 3; (iii) move the bullets related to “added flags,” “removal flags,” and “routed flags” from the Definitions section to the General Notes section; and (iv) amend the phrase “Step Up” to “Step-Up” in the tiers in Footnote 1. All of the changes described herein are applicable to EDGX Members.<sup>3</sup> The text of the proposed rule change is available on the Exchange’s Internet website at [www.directedge.com](http://www.directedge.com), at the Exchange’s principal office, and at the Public Reference Room of the Commission.

---

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

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

<sup>3</sup> As defined in Exchange Rule 1.5(n).

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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to: (i) add the Tape B Step Up Tier; (ii) add the Mega Tier 3; (iii) move the bullets related to “added flags,” “removal flags,” and “routed flags” from the Definitions section to the General Notes section; and (iv) amend the phrase “Step Up” to “Step-Up” in the tiers in Footnote 1.

Addition of Tape B Step Up Tier

The Exchange proposes to add a new tier to its Fee Schedule, the Tape B Step Up Tier. The Tape B Step Up Tier would provide a rebate of \$0.0025 per share for orders yielding flags B and 4 (adds liquidity to EDGX in Tape B securities) to Members that add 600,000 shares in average daily volume (“ADV”) in Tape B securities more than the Member’s August 2013 ADV in Tape B securities added to EDGX. The Exchange proposes to remove the word “Reserved” from Footnote 2 to its Fee Schedule and replace it with the Tape B Step Up Tier. Furthermore, the Exchange proposes to append Footnote 2 to flags B and 4, both of which would qualify for the tiered rebate if a Member meets the aforementioned requirement.

Addition of the Mega Tier 3

The Exchange proposes to add a new tier to its Fee Schedule, the Mega Tier 3. The Mega Tier 3 would provide a rebate of \$0.0032 per share for orders that add liquidity yielding flags B, V, Y, 3, 4 and ZA provided the Member (i) adds or routes at least 1,500,000 shares of ADV prior to 9:30 AM or after 4:00 PM and (ii) adds a minimum of 0.75% of the total consolidated volume (“TCV”) on a daily basis measured monthly, including during both market hours and pre- and post-trading hours. The Exchange proposes to add the Mega Tier 3 below Mega Tier 2 and above the Market Depth Tier within the list of volume tiers in Footnote 1 to its Fee Schedule.

#### Amendments to Lists of Added, Removal and Routed Flags

Currently, the Definitions section in the Fee Schedule contains three bullets that contain the list of applicable “added flags,” “removal flags,” and “routed flags,” that may be considered when calculating whether a Member satisfied a certain tier. The Exchange proposes to move the text contained within each of the three bullets to the General Notes section. In addition, the Exchange proposes to re-word the text of each bullet to improve readability and remove references to the flags as defined terms. For example, the amended bullet regarding added flags would read as follows: “Unless otherwise indicated, the following added flags are counted towards tiers...” The Exchange notes that the list of added/removal/routed flags associated with each bullet would remain unchanged.

#### Amendment to Step-Up Tiers in Footnote 1

Currently, the Step-Up Tiers in Footnote 1 to the Fee Schedule are lacking a hyphen between the words “Step” and “Up.” The Exchange proposes to add a hyphen so that each tier so-titled would no longer be a “Step Up” tier but a “Step-Up” tier. The Exchange notes that the criteria necessary to achieve the tiers and the rates offered by the tiers would remain unchanged.

### Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on September 3, 2013.

### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>5</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.

### Addition of Tape B Step Up Tier

The Exchange believes that its proposal to add the Tape B Step Up Tier to Footnote 2 to its Fee Schedule represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the tier would encourage Members to add liquidity to EDGX in Tape B securities in order to qualify for a higher rebate. The Exchange currently offers a rebate of \$0.0020 per share for orders that add liquidity to EDGX in Tape B securities yielding flags B (regular session) and 4 (pre and post market). The Tape B Step Up Tier would provide Members with an increased rebate of \$0.0025 per share for orders that yield flags B and 4, provided Members meet the increased volume requirement necessary to achieve the tier. As such, the Exchange believes that the rate offered by the Tape B Step Up Tier is reasonable because it is directly related to a Member's level of executions in Tape B Securities during the month.

---

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(4).

The Exchange also notes that the Tape B Step Up Tier is similar to the Step-Up Tier 1 in Tape B securities offered by NYSE Arca, Inc. (“Arca”).<sup>6</sup> Arca currently offers a non-tiered rebate for adding liquidity in Tape B securities of \$0.22 per share and a non-tiered fee for removing liquidity in Tape B securities of \$0.30 per share. Arca’s Step-Up Tier 1 provides for an add rebate of \$0.23 per share and a removal fee of \$0.28 for firms that add an excess of 0.20% in ADV in Tape B securities over a benchmark month, subject to a minimum increase of 20 million shares. The Tape B Step Up Tier is similar to the Arca’s Step-Up Tier 1 in that it provides Members with an increased rebate in exchange for increased volume.

Lastly, The Exchange believes that the proposed rate is non-discriminatory in that it applies uniformly to all Members.

#### Addition of the Mega Tier 3

The Exchange believes that its proposal to add the Mega Tier 3 to the list of volume tiers in Footnote 1 to its Fee Schedule represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the tier would encourage Members to add liquidity to EDGX during pre- and post-trading hours. Fewer Members generally trade during pre- and post-trading hours because of the limited time parameters associated with these trading sessions, which generally results in less liquidity. In addition, the Exchange assigns a higher value to this resting liquidity because liquidity received prior to the regular trading session typically remains resident on the EDGX Book throughout the remainder of the entire trading day. Furthermore, liquidity received during pre- and post-trading hours is an important contributor to price discovery and acts as an important indication of price for the market as a whole considering the relative illiquidity of the pre- and post-trading hour

---

<sup>6</sup> Arca, NYSE Arca Equities Trading Fees, [available at](http://usequities.nyx.com/markets/nyse-arca-equities/trading-fees) <http://usequities.nyx.com/markets/nyse-arca-equities/trading-fees>.

sessions. The Exchange believes that offering a higher rebate incentivizes Members to provide liquidity during these trading sessions.

The Exchange also believes that the Mega Tier 3 is reasonable and equitably allocated because such increased liquidity benefits all investors by deepening EDGX's liquidity pool and improving investor protection. Volume-based rebates such as the one proposed herein are widely utilized in the cash equities markets, and are equitable because they are open to all Members on an equal basis and provide incentives that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and opportunities for price improvement.

Furthermore, the Exchange believes that the criteria for the Mega Tier 3 represents an equitable allocation of reasonable dues, fees, and other charges because higher rebates are directly correlated with more stringent criteria.

For example, in order for a Member to qualify for the Mega Tier 1 and be provided with a rebate of \$0.0035 and a \$ 0.0015 discounted routing and removal rate, the Member would have to (i) add or route at least 4,000,000 shares of ADV during pre- and post-trading hours (ii) add a minimum of 35,000,000 shares of ADV on EDGX in total, including during both market hours and pre- and post-trading hours and (iii) have an "added liquidity" to "added plus removed liquidity" ratio of at least 85%. When comparing the first criteria of the Mega Tier 1 to that of the Mega Tier 3, it is apparent that the Mega Tier 1 requires a volume requirement during pre- and post-trading hours that is 2,500,000 shares higher than that required by the Mega Tier 3, which only requires 1,500,000 shares of ADV during pre- and post-trading hours. With regard to the second criteria of both tiers, based on a TCV for September 2013 of six (6) billion shares, a Member would be required to add 40,000,000 shares in ADV on EDGX in total, including both

market hours and pre- and post-trading hours to meet the second criteria to achieve the Mega Tier 3, which is higher than the 35,000,000 shares required to meet the second criteria under the Mega Tier 1. Although the ADV required under the second criteria of the Mega Tier 3 is higher than that required by the Mega Tier 1, the Mega Tier 1 contains yet a third criteria not required of the Mega Tier 3 -- that a Member have an “added liquidity” to “added plus removed liquidity” ratio of at least 85%. Members that primarily post liquidity are more valuable Members to the Exchange and the marketplace in terms of liquidity provision. Therefore, the Exchange offers a higher rebate to those Members that are able to meet the “added liquidity” to “added plus removed liquidity” ratio of 85% under the third criteria of the Mega Tier 1. Accordingly, the Mega Tier 1 is the most stringent of the volume tiers and provides the highest rebate.

In order to qualify for the next best tier, the Market Depth Tier, and receive a rebate of \$0.0033 per share for displayed liquidity, a Member must post at least 0.50% of the TCV in ADV on EDGX in total, where at least 1.8 million shares are non-displayed orders that add liquidity to EDGX yielding Flag HA. Based on a TCV for May 2013 of six (6) billion shares, this would amount to 30,000,000 shares for the Market Depth Tier and 45,000,000 shares for the Mega Tier 3. While the Mega Tier 3’s TCV requirement is higher, Members seeking to achieve the Market Depth Tier would also be required to post at least 1.8 million shares are non-displayed orders that add liquidity to EDGX yielding Flag HA. The Exchange believes that this requirement regarding non-displayed liquidity is more stringent and warrants a higher rebate because non-displayed orders do not have the same ability to attract contra-side orders to the marketplace because they are hidden on the EDGX book, are less commonplace than displayed

liquidity, and Members are not eligible for the same rebates that displayed liquidity qualify for.<sup>7</sup> In addition, because of the hierarchy of priority in Rule 11.8(a)(2), for equally priced trading interest, non-displayed orders always have a lower priority than displayed orders. As a result, a Member has a priority disadvantage when using such order type and therefore, the criteria to satisfy the Market Depth Tier are more stringent than those of the Mega Tier 3 and warrant a higher rebate.

Mega Tier 3 provides the same rebate as Mega Tier 2. To achieve the Mega Tier 2 and receive a rebate of \$0.0032 per share, a Member must (1) add or route at least 4,000,000 shares of ADV prior to 9:30 AM or after 4:00 PM (includes all flags except 6); and (2) add a minimum of 0.20% of the TCV on a daily basis measured monthly, including during both market hours and pre and post-trading hours. Based on a TCV for September 2013 of six (6) billion shares, this would amount to 12,000,000 shares for the Mega Tier 2 and 45,000,000 shares for the Mega Tier 3. Although the TCV requirement is higher for the Mega Tier 3, the Mega Tier 3 only requires that a Member add or route at least 1.5 million shares of ADV prior to 9:30 AM or after 4:00 PM, whereas the Mega Tier 2 requires that a Member add or route at least 4 million shares prior to 9:30 AM or after 4:00 PM. The Exchange believes that these requirements essentially render the two tiers equally difficult to obtain, and therefore proposes to offer the same rebate for either tier.

In order to qualify for the next tier after the Mega Tier 3, the Ultra Tier, a Member must, on a daily basis, measured monthly, post 0.50% of TCV in ADV to EDGX to receive a rebate of \$ 0.0031 per share. The criteria for this tier is less stringent than the Mega Tier 3 because a Member aspiring to meet the Mega Tier 3 must satisfy two criteria: (1) add or route at least 1.5

---

<sup>7</sup> Non-displayed orders that add liquidity (Flag HA) are eligible for a \$0.0015 per share rebate instead of the standard rebate for displayed liquidity of \$0.0020 per share.



million shares of ADV prior to 9:30 AM or after 4:00 PM; and (2) add a minimum of 0.75% of the TCV on a daily basis measured monthly, including during both market hours and pre and post-trading hours. The Ultra Tier only requires a Member post 0.50% of TCV in ADV to EDGX. Based on a TCV for September 2013 of six (6) billion shares, this would amount to 30,000,000 shares for the Ultra Tier and 45,000,000 shares for the Mega Tier 3. The higher volume requirement necessary to achieve the Mega Tier 3 justifies its higher rebate.

#### Amendments to Lists of Added, Removal and Routed Flags

The Exchange believes that the proposed relocation and changes to the bullets related to “added flags,” “removal flags,” and “routed flags” in its Fee Schedule are reasonable because they provide Members with greater clarity with regard to which added, removal or routed flags count toward certain tiers, and remove potential confusion regarding the definition of such flags. The Exchange notes that the proposed change is not designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that the proposed amendment is intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

#### Amendment to Step-Up Tiers in Footnote 1

The Exchange believes that changing the “Step Up” tiers in Footnote 1 of its Fee Schedule to the “Step-Up” tiers is reasonable because it conforms to the spelling of the proposed Tape B Step-Up Tier as well as the step-up tier available on EDGA Exchange, Inc. (“EDGA”).<sup>8</sup>

---

<sup>8</sup> EDGA, Fee Schedule, available at <http://www.directedge.com/Membership/FeeSchedule/EDGXFeeSchedule.aspx> (offering the “Step-Up Tier”).

The Exchange notes that the criteria necessary to achieve the tiers and the rates offered by the tiers would remain unchanged.

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

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGX's pricing if they believe that alternatives offer them better value.

Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Addition of Tape B Step Up Tier

The Exchange believes that the proposed addition of the Tape B Step Up Tier would increase intermarket competition because it would encourage market participants to send additional liquidity in Tape B securities to EDGX in exchange for an increased rebate. The Exchange believes that the proposed tier would neither increase nor decrease intramarket competition because the increased rebate offered by the tier would apply uniformly to all Members that meet the requirements necessary to achieve the tier.

Addition of the Mega Tier 3

The Exchange believes that the proposed addition of Mega Tier 3 would increase intermarket competition because it would encourage market participants to send additional liquidity to EDGX in exchange for an increased rebate. The Exchange believes that the proposed tier would neither increase nor decrease intramarket competition because the increased rebate

offered by the tier would apply uniformly to all Members that meet the requirements necessary to achieve the tier.

Amendments to Lists of Added, Removal and Routed Flags

The Exchange believes that the proposed relocation and changes to the bullets related to “added flags,” “removal flags,” and “routed flags” in its Fee Schedule would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. The proposed change is intended to provide greater transparency to Members with regard to which added, removal and routed flags are counted towards certain tiers.

Amendment to Step-Up Tiers in Footnote 1

The Exchange believes that the proposed non-substantive change to the “Step-Up” tiers in Footnote 1 would not affect intermarket nor intramarket competition because the change does not alter the criteria necessary to achieve the tiers nor the rates offered by the tiers.

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>9</sup> and Rule 19b-4(f)(2)<sup>10</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

---

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4 (f)(2).

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.

#### 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-2013-33 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-2013-33. 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 SR-EDGX-2013-33 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.<sup>11</sup>

Kevin M. O'Neill  
Deputy Secretary

---

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