

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72016; File No. SR-EDGX-2014-13)

April 24, 2014

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing of Proposed Rule Change to Amend Footnote 4 of the Exchange's Fee Schedule to Permit Members to Designate their Retail Orders to be Identified as Retail on the EDGX Book Feed

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 April 17, 2014, 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 Footnote 4 of its Fee Schedule to permit Members to designate that their Retail Orders be identified as Retail on the EDGX Book Feed. The text of the proposed rule change is available on the Exchange's Internet website at www.directedge.com, at the Exchange's principal office, and at the Public Reference Room of the Commission.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Footnote 4 of its Fee Schedule to permit Members to designate that their Retail Orders be identified as Retail on the EDGX Book Feed. Footnote 4 of the Exchange’s Fee Schedule defines a Retail Order³ and provides an attestation requirement⁴ that Members must complete to send Retail Orders to the Exchange. Footnote 4 of the Exchange’s Fee Schedule also provides that Members may

³ A Retail Order is defined as (i) an agency order or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person; (ii) is submitted to EDGX by a Member, provided that no change is made to the terms of the order; and (iii) the order does not originate from a trading algorithm or any other computerized methodology. See Footnote 4 of the Exchange’s Fee Schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx>; Securities Exchange Act Release No. 68310 (November 28, 2012), 77 FR 71860 (December 4, 2012) (SR-EDGX-2012-47) (Notice of Filing and Immediate Effectiveness); Securities Exchange Act Release No. 69378 (April 15, 2013), 78 FR 23617 (April 19, 2013) (SR-EDGX-2013-13) (Notice of Filing and Immediate Effectiveness)

⁴ Members must submit a signed written attestation, in a form prescribed by the Exchange, that they have implemented policies and procedures that are reasonably designed to ensure that substantially all orders designated by the Member as a “Retail Order” comply with the above requirements. See Footnote 4 of the Exchange’s Fee Schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx>; Securities Exchange Act Release No. 68310 (November 28, 2012), 77 FR 71860 (December 4, 2012) (SR-EDGX-2012-47) (Notice of Filing and Immediate Effectiveness). See also Securities Exchange Act Release No. 69852 (June 25, 2013), 78 FR 39420 (July 1, 2013) (SR-EDGX-2013-20) (Notice of Filing and Immediate Effectiveness).

designate orders as Retail Orders on an order-by-order basis or a port level basis by designating particular FIX ports as Retail Order Ports.⁵

Currently, Members may elect that their display-eligible orders entered into the Exchange utilize Attributable Orders⁶ to include their market participant identifier (“MPID”) with their published quotations on the EDGX Book Feed. The Exchange now proposes to amend Footnote 4 of its Fee Schedule to permit Members to designate that their Retail Orders be identified as Retail on the EDGX Book Feed, rather than by their MPID.⁷ A Member may elect that their Retail Orders be identified as Retail on an order-by-order basis or instruct the Exchange to identify all its Retail Orders as Retail on a port-by-port basis where that port is also designated as a Retail Order Port. However, if a Member instructs the Exchange to identify all its orders as Retail on a Retail Order Port, it will not be able to designate any Retail Order from that port as an Attributable Order or as a Non-Attributable Order.⁸

Implementation Date

⁵ See Securities Exchange Act Release No. 68554 (December 31, 2012), 78 FR 966 (January 7, 2013) (SR-EDGX-2012-48) (Notice of Filing and Immediate Effectiveness).

⁶ An Attributable Order is defined as, “[a]n order that is designated for display (price and size) including the Member’s market participant identifier (‘MPID’).” See Rule 11.5(c)(18).

⁷ A Member’s decision on whether to identify their Retail Order as Retail under the proposed rule change will not impact that Member’s eligibility to qualify for a rebate under the Retail Order Tier included in Footnote 4 of the Exchange’s Fee Schedule.

⁸ A Non-Attributable Order is defined as “[a]n order that is designated for display (price and size) on an anonymous basis by the Exchange. See Rule 11.5(c)(19).

The Exchange will announce the effective date of the proposed rule change in a Trading Notice to be published no later than 30 days following approval of the proposed rule change by the Commission.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposal will benefit market participants and help to promote transparency by providing additional information regarding quotations displayed on the Exchange and disseminated via the EDGX Book Feed. Specifically, any Member who satisfies the requirement under Footnote 4 of the Fee Schedule that wishes to disclose via the EDGX Book Feed that their order is a Retail Order will be permitted to do so, and such retail quotations will be analogous to identified trading interest in other contexts.¹¹ The proposal also promotes transparency by disseminating additional order information from Members who may otherwise designate their order as Non-Attributable, and thereby not include their MPID with their published quote on the EDGX Book Feed. As a result, the proposal will provide Members additional visibility into the types of

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ For example, under the New York Stock Exchange, Inc.'s ("NYSE") Retail Liquidity Program, when there is a Retail Price Improvement Order in a particular security, the NYSE disseminates an indicator, known as the Retail Liquidity Identifier. See NYSE Rule 107C(j). See also NYSE MKT LLC ("NYSE MKT") Rule 107C(j); NYSE Arca, Inc. ("NYSE Arca") Rule 7.44(j).

orders they may interact with when an order is identified as a Retail Order. The Exchange also believes that the proposed rule change is reasonable, equitable and not unfairly discriminatory because it would encourage Members who wish to execute against Retail Orders to send additional orders to the Exchange. For example, the Exchange conducted a study of its execution data from January 1, 2014 to March 31, 2014, which indicated that Members who represent Retail Orders and utilize Attributable Orders to include their MPID with their published quote on the EDGX Book Feed received an 18% higher execution rate than Members who represent Retail Orders that elected not to include their MPID on the EDGX Book Feed via the use of a Non-Attributable Order.¹² Therefore, the Exchange believes the increased liquidity would potentially stimulating further price competition for Retail Orders, deepening the Exchange's liquidity pool, supporting the quality of price discovery, and promoting market transparency.

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

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed amendment will not burden intramarket competition because the ability to designate Retail Orders to be identified as Retail on the EDGX Book Feed, rather than by their MPID, would be open

¹² The Exchange compared the execution rates of Attributed Orders to Non-Attributed Orders submitted by Members whose primary business is representing retail customers or who designate their orders as Retail Orders for purposes of Footnote 4 of the Exchange's Fee Schedule. The Exchange calculated the execution rate by dividing the total executed quantity by the total order quantity for buy orders with a limit price greater than or equal to the National Best Bid ("NBB") and less than National Best Offer ("NBO") and sell orders with limit price greater than the NBB and less than or equal to the NBO.

to all Members that wish to send Retail Orders to the Exchange. The Exchange believes the proposed rule change would increase intermarket competition by identifying orders as Retail via the EDGX Book Feed would enable the Exchange to better compete with other exchanges that offer similar retail order programs.¹³ The Exchange believes that the amendment, by increasing the amount of disseminated information regarding Retail Orders, will increase the level of competition around retail executions resulting in better prices for retail investors.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

¹³ Id.

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-EDGX-2014-13 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-EDGX-2014-13. 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-2014-13, 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.¹⁴

Kevin M. O'Neill
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).