

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77036; File No. SR-EDGX-2016-01)

February 2, 2016

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 21.1, Definitions, Relating to the Operation of the Attribution Feature of EDGX Options

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 January 21, 2016, EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ which renders it 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 authorize the Exchange’s equity options platform (“EDGX Options”) to make a modification to Rule 21.1 (Definitions) in connection with the operation of the attribution feature of EDGX Options, as described below. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

required by Rule 19b-4(f)(6)(iii) under the Act.⁵

The text of the proposed rule change is available at the Exchange's website at 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to modify Rule 21.1, Definitions, which sets forth the various definitions applicable to the operation of the EDGX Options platform, including order types and order type modifiers accepted by EDGX Options. As set forth in Rule 21.1, an order can be attributed on EDGX Options, meaning that such order is displayed with not only a price and size but also a User's⁶ market participant identifier, or MPID (such order an "Attributable Order"). Alternatively, a User may also submit an order that is designated for display on an anonymous basis, a "Non-Attributable Order." Rule 21.1(c) also states that all orders shall be treated as Attributable Orders unless a User has entered instructions to treat such orders as Non-

⁵ 17 CFR 240.19b-4(f)(6)(iii).

⁶ The term User is defined in Rule 1.5(ee) as "any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3."

Attributable Orders. In addition to attribution, as discussed in Rule 21.1, Exchange Rule 21.15(c) states that the Exchange will indicate on OPRA when there is Customer interest on EDGX Options and will identify Customer orders and trades as such on the Exchange's proprietary data feeds.

While the Exchange does not propose to modify the identification of Customer interest, orders or trades to either OPRA or on Exchange proprietary data feeds, the Exchange proposes to eliminate the ability for a Customer order to also be an Attributable Order. In other words, though Customer interest, orders and trades would still be identified as such through applicable data feeds, only non-Customer orders could be identified on Exchange data feeds with attribution to a specified MPID. The Exchange believes that limiting the use of Attributable Orders to non-Customer orders is reasonable because such functionality was primarily intended for Market Makers and other professional participants that typically provide liquidity to indicate their presence on EDGX Options with attribution to their MPID.

The Exchange notes that it does not propose the change set forth above due to concerns with respect to Customer orders being entered as Attributable Orders but rather due to current system limitations in supporting both the attribution feature and the identification [sic] of Customer orders as such. On balance, the Exchange believes that the identification of orders as Customer orders is more consistent with the operation of other options exchanges and important to the Exchange's pro rata priority model than is the attribution of a particular Customer order to a specific MPID.

The Exchange also notes that the equities platform of the Nasdaq Stock Market LLC ("Nasdaq") also limits the availability of attribution to certain market participants, including

market makers.⁷

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁸ In particular, the proposal is consistent with Section 6(b)(5) of the Act⁹ because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change will allow the Exchange to continue to accept Attributable Orders from non-Customers while also designating Customer orders as such on applicable data feeds. As set forth above, the Exchange believes that non-Customers quoting and providing liquidity are the most likely users of the Attributable Order feature and that restricting Customer orders from the use of the feature is appropriate given the separate identification of Customer orders on applicable data feeds. As set forth above, at least one other exchange has similarly limited attribution to certain professional market participants.¹⁰

⁷ See Nasdaq Rule 4756(b), which permits Nasdaq Market Makers and Nasdaq ECNs to attribute their quotations on Nasdaq. See also Nasdaq Rule 4702(b)(2)(A), which limits the availability of Nasdaq “Price to Display Orders” to Nasdaq Market Makers and further states that all Price to Display Orders are Attributable Orders.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See supra note 7.

(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 proposed rule change is not designed to address any competitive issues but rather to make a modification to the Exchange's attribution offering to ensure that the Exchange's System and rules are consistent and that the most important features can be offered to Users in their varying capacities. As noted above, at least one other exchange has similarly limited attribution to certain professional market participants.¹¹

(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 written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹⁴

¹¹ Id.

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may continue to permit non-Customers to attribute their orders and to allow the Exchange to label orders as Customer Orders. The Commission believes that the proposal will update the rules of the Exchange to accurately reflect how the System operates with respect to Attributable Orders thereby avoiding confusion by market participants. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.¹⁵ The Commission hereby grants the Exchange's request and designates the proposal operative upon filing.

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 Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(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. Please include File No. SR-EDGX-2016-01 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 No. SR-EDGX-2016-01. 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 such filing will also 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 No. SR-EDGX-2016-01 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.¹⁶

Robert W. Errett
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).