SECURITIES AND EXCHANGE COMMISSION
Release No. 34-81454; File No. SR-BatsEDGA-2017-21

August 22, 2017

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 11.8, Order Types, to Permit MidPoint Discretionary Orders to be Non-Displayed

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 August 11, 2017, Bats EDGA Exchange, Inc. (the "Exchange" or "EDGA") 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 Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] 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 proposed rule change to permit MidPoint Discretionary Orders ("MDO") to be Non-Displayed[5] by amending paragraph (e) of Exchange Rule 11.8, Order Types.

The text of the proposed rule change is available at the Exchange's website at

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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).

5 See Exchange Rule 11.6(e)(2).

www.bats.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

An MDO is a limit order to buy that is displayed at and pegged to the National Best Bid ("NBB"), with discretion to execute at prices up to and including the midpoint of the National Best Bid and Offer ("NBBO"), or a limit order to sell that is displayed at and pegged to the National Best Offer ("NBO"), with discretion to execute at prices down to and including the midpoint of the NBBO.[6] MDOs are designed to exercise discretion to execute to the midpoint of the NBBO and provide price improvement over the NBBO.

Currently, an MDO is displayed on the EDGA Book[7] at the NBB or NBO to which it is pegged. The Exchange now proposes to permit Users[8] to elect that their MDO be Non-Displayed on the EDGA Book by amending paragraph (e) of Exchange Rule 11.8, Order Types. Therefore, the Exchange proposes to add new paragraph (4) to the description of MDOs under

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6 See Exchange Rule 11.8(e) for a complete description of the operation of MDOs.

7 See Exchange Rule 1.5(d).

8 See Exchange Rule 1.5(ee).

Rule 11.8(e) stating that an MDO will default to a Displayed[9] instruction unless the User includes a Non-Displayed instruction on the order and will be Displayed or Non-Displayed on the EDGA Book at its pegged or limit price in accordance with paragraph (e) of Rule 11.8.[10] The price to which an MDO is pegged to, whether Displayed or Non-Displayed, will continue to operate in the same manner as it does today in all other respects. Proposed paragraph (4) of Rule 11.8(e) would also specify that a User may elect that its MDO that is displayed on the EDGA Book include the User's market participant identifier ("MPID") by selecting the Attributable instruction.[11] Otherwise, an MDO with a Displayed instruction will automatically default to a Non-Attributable[12] instruction. This is consistent with the current operation of orders that are to be displayed on the EDGA Book.[13]

The Exchange also proposes to make certain revisions to paragraph (e) of Rule 11.8 to account for enabling Users to elect that an MDO to be Non-Displayed. These revisions include deleting references to "displayed" prices and replacing certain references to "displayed" with "pegged". As stated above and as currently set forth in Rule 11.8(e), the price at which an MDO is displayed on the EDGA Book is either the NBB or NBO to which it is pegged. An MDO that is to be Non-Displayed will operate in the same manner but its pegged price will simply not be displayed on the EDGA Book. Therefore, deleting references to "displayed" prices and replacing certain references to "displayed" with "pegged" would not affect the operation of an

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9 See Exchange Rule 11.6(e)(1).

10 The Exchange proposes to renumber existing paragraph (4) as (5) and to increase the numbering of each following paragraph under Rule 11.8(e) accordingly.

11 See Exchange Rule 11.6(a).

12 See Exchange Rule 11.6(a)(1).

13 See e.g, Exchange Rule 11.8(b)(4).

MDO other than to account for when an MDO is Non-Displayed. First, the Exchange proposes to amend the first sentence of paragraph (e) of Rule 11.8 to delete references to “displayed”. As a result, an MDO would be defined as “a limit order to buy that is pegged to the NBB, with discretion to execute at prices up to and including the midpoint of the NBBO, or a limit order to sell that is pegged to the NBO, with discretion to execute at prices down to and including the midpoint of the NBBO.” References to “displayed” throughout the remainder of paragraph (e) of Rule 11.8 would be replaced by “pegged”. Therefore, the rule would state that an MDO’s pegged price, like its displayed price today, and Discretionary Range[14] are bound by its limit price.[15] The pegged prices of an MDO, like its displayed price today, will continue to be derived from the NBB or NBO, and will continue to be unable to independently establish or maintain the NBB or NBO.

The Exchange also proposes to amend renumbered paragraph (7) to make two non-substantive, clarifying changes and to replace the term “displayed” with “pegged”. The current language states that an MDO with a limit price and time-in-force of Day that rests on the EDGA Book will be repriced. The Exchange proposes to delete the phrase “with a limit price and a time-in-force of Day” as all MDOs must include a limit price and may include time-in-force instructions other than Day that would cause them to rest on the EDGA Book, such as RHO, GTX, and GTD. Paragraph (7) also states that the pegged price of an MDO that is resting on the EDGA Book will be adjusted in response to changes in the midpoint of the NBBO. While this language is technically correct and the midpoint of the NBBO will change in the case where

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[14] See Exchange Rule 11.6(d). The Exchange also proposes to capitalize all references to the defined term “Discretionary Range” within Rule 11.8(e).

[15] An MDO to buy or sell with a limit price that is less than the prevailing NBB or higher than the prevailing NBO, respectively, will continue to be posted to the EDGA Book at its limit price. See Exchange Rule 11.8(e).

either the NBB or NBO changes, the Exchange proposes to amend paragraph (7) to clarify that the pegged price will be adjusted in response to changes in the NBB or NBO as those are the prices that the pegged price tracks. Lastly, the amended rule would state that any unexecuted portion of an MDO that is resting on the EDGA Book will receive a new time stamp each time its pegged price, rather than displayed price, is automatically adjusted in response to changes in the NBBO.

Today, for purposes of MDO priority, the displayed price of an MDO is treated like a Limit Order that is displayed on the EDGA Book.[16] Limit Orders with a Non-Displayed instruction have priority behind Limit Orders with a Displayed instruction resting on the EDGA Book.[17] In order to continue to treat MDO priority consistent with that of Limit Orders, and not like other orders with a Pegged instruction, the Exchange proposes that an MDO with a Non-Displayed instruction will have the same priority as Limit Orders with a Non-Displayed instruction when executed at their pegged price. As a result, the Exchange proposes to amend paragraph (a)(2)(C)(i) of Rule 11.9 to specify that, for purposes of order priority, the pegged price of an MDO, like its displayed price today, will be treated as a Limit Order, as defined in Exchange Rule 11.8(b). This change is designed to account for the pegged price of an MDO being Displayed or Non-Displayed and the proposed priority of an MDO with a Non-Displayed instruction. MDOs executed in their Discretionary Range will maintain the same priority as they do today regardless of whether their pegged price is displayed on the EDGA Book.[18]

2. Statutory Basis

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16 See Exchange Rule 11.9(a)(2)(C)(i).

17 See Exchange Rule 11.9(a)(2)(A)(ii).

18 See Exchange Rule 11.9(a)(2)(A)(iv).

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[19] in general, and furthers the objectives of Section 6(b)(5) of the Act[20] in particular, in that it is designed 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 promotes just and equitable principles of trade because it would provide Users who utilize MDOs with additional flexibility by enabling such Users to elect that the pegged price of the MDO not be displayed on the EDGA Book. All other aspects of an MDO will remain unchanged. Allowing for the non-display of MDOs on the EDGA Book would minimize the market impact of larger orders. The proposed rule change may also incentivize Users to enter MDOs with large sizes thereby increasing liquidity at the NBBO as well as the midpoint of the NBBO, resulting in increased price improvement opportunities for contra-side orders. The Exchange notes that electing that an MDO be Non-Displayed would be voluntary, and that such orders will default to Displayed unless the User elects Non-Displayed.

Furthermore, the Exchange notes that NYSE Arca, Inc. ("NYSE Arca") and the Investors Exchange LLC ("IEX") both currently offer order types that peg to the NBBO with discretion to execute to the midpoint of the NBBO and allow for the order's pegged price to not be displayed on their respective order books.[21]

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19 15 U.S.C. 78f(b).

20 15 U.S.C. 78f(b)(5).

21 See NYSE Arca Rule 7.31(h)(3) (defining the Discretionary Pegged Order). See also Securities Exchange Act Release No. 78181 (June 28, 2016), 81 FR 43297 (July 1, 2016) (order approving the Discretionary Pegged Order). See IEX Rule 11.190(a)(3) (defining Pegged Orders as a non-displayed order which may be pegged to the inside quote on the

Lastly, the Exchange believes the non-substantive clarifying changes to Exchange Rule 11.8(e) remove impediments to and perfect the mechanism of a free and open market and a national market system as they seek to remove or correct in order to ensure the rule accurately reflects the operation of MDOs and avoid potential investor confusion.

Therefore, the Exchange believes the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. On the contrary, the Exchange believes the proposed rule change promotes competition because it will enable the Exchange to offer functionality similar to that offered by NYSE Arca and IEX.[22] Therefore, the Exchange does not believe the proposed rule change will result in any burden on intermarket 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

No comments were solicited or received on the proposed rule change.

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

Because the foregoing proposed rule change does not: (A) significantly affect the

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same side of the market with discretion to the midpoint of the NBBO, i.e., Discretionary Peg orders). See also Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (order approving the IEX exchange application, which included IEX's Pegged Orders and Discretionary Peg Order).

22 Id.

protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and paragraph (f)(6) of Rule 19b-4 thereunder,[24] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief 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.

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: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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.

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

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[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b-4.

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BatsEDGA-2017-21 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-BatsEDGA-2017-21. 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-BatsEDGA-2017-21 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.[25]

Eduardo A. Aleman
Assistant Secretary

[25] 17 CFR 200.30-3(a)(12).