SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-90713; File No. SR-CboeEDGX-2020-063)

December 17, 2020

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend EDGX Rule 11.8(g), which Describes the Handling of MidPoint Discretionary Orders Entered on the Exchange

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 December 15, 2020, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b-4(f)(6) thereunder.[4] 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**

Cboe EDGX Exchange, Inc. ("EDGX" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to amend EDGX Rule 11.8(g), which describes the handling of MidPoint Discretionary Orders entered on the Exchange.[5] The text of the proposed rule change is provided in Exhibit 5.

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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)(iii).

[4]   17 CFR 240.19b-4(f)(6).

[5]   17 CFR 240.19b-4(f)(6)(iii).

The text of the proposed rule change is also available on the Exchange's website
(http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange's Office of the
Secretary, 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 aspects of such statements.

A.   Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1.   Purpose

The purpose of the proposed rule change is to amend EDGX Rule 11.8(g) to allow Users

that enter MidPoint Discretionary Orders ("MDOs") with a Quote Depletion Protection ("QDP")

instruction[6] to also include an optional instruction to allow the MDO to remove liquidity. An

MDO is a Limit Order that when resting on the EDGX Book is pegged to the NBB for an order

to buy or the NBO for an order to sell, with or without an offset, with discretion to execute at

prices to and including the midpoint of the NBBO.[7] MDOs entered on the Exchange today are

designed to only act as the provider of liquidity, including when resting on the EDGX Book and

on entry.[8] On June 4, 2020, the Exchange received approval to introduce a new QDP instruction

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6   QDP is an optional instruction that a User may include on an MDO to limit the order's
        ability to exercise discretion in certain circumstances. See EDGX Rule 11.9(g)(10).

7   See EDGX Rule 11.8(g).

8   Id.

that Users can include on their MDOs to limit the order's ability to exercise discretion in certain

circumstances where applicable market conditions indicate that it may be less desirable to

execute within the order's discretionary range.[9] QDP is designed to enable market participants to

enter orders that may exercise discretion to trade at more aggressive prices up to the midpoint of

the NBBO, while providing additional protection to those orders at times where the market for

the security may be about to transition to a worse price from the perspective of the MDO. As

proposed, Users that enter an MDO with a QDP instruction would be permitted to include an

optional instruction to allow the MDO to remove liquidity, thereby facilitating the ability of such

orders to aggressively seek an execution on entry and when posted to the EDGX Book.

Currently, an MDO entered on the Exchange will only act as a liquidity provider once

resting on the EDGX Book, and will only execute on entry in limited circumstances where the

resting order includes a Super Aggressive or Non-Displayed Swap ("NDS") instruction that

allows for a liquidity swap with the incoming MDO.[10] As a result, MDOs entered on the

Exchange will only act as liquidity provider – *i.e.*, either as the resting order, or by liquidity

swapping with a resting order that is willing to assume the role of the liquidity remover in

exchange for obtaining an execution.[11] By contrast, MDOs entered on the Exchange's affiliate,

Cboe EDGA Exchange, Inc. ("EDGA"), are allowed to remove liquidity.[12] Although the

Exchange believes that certain Users will continue to prefer to act solely as a liquidity provider,

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[9] See Securities Exchange Act Release No. 89007 (June 4, 2020), 85 FR 35454 (June 10, 2020) (SR-CboeEDGX-2020-010).

[10] See EDGX Rule 11.8(g).

[11] The Exchange's Super Aggressive and NDS instructions allow orders entered with those instructions to trade as the remover of liquidity with orders that are designated to act solely as the liquidity provider. See EDGX Rules 11.6(n)(2),(7).

[12] See EDGA Rule 11.8(e).

additional flexibility may be beneficial to market participants, particularly those that have begun

entering MDOs with the recently-introduced QDP instruction. Indeed, the Exchange has received

feedback from Users that utilize the QDP instruction on their MDOs indicating that they

appreciate the protective features provided by QDP, but that it would also be valuable to improve

fill rates by permitting such orders to remove liquidity. The Exchange is thus proposing to amend

its rules such that Users would have the flexibility to allow such orders to remove liquidity.

MDOs entered with both a QDP instruction and an instruction to allow the order to remove

liquidity would be handled in the same manner as MDOs entered with a QDP instruction on

EDGA today, thereby providing a consistent and familiar experience for market participants.

In addition, since the Exchange believes that Users utilizing the MDO order type with a

QDP instruction are more concerned with potential adverse selection risks, and would generally

prefer to be able to secure an execution when possible at times that the QDP indicator does not

predict a potential adverse price change, *i.e.*, regardless of whether adding or removing liquidity,

the Exchange proposes to make the ability to remove liquidity the default instruction for such

orders. However, the Exchange would also retain the current functionality that allows MDOs to

be entered that will only act as the provider of liquidity. This functionality would continue to

apply to all MDOs entered without a QDP instruction, as well as to MDOs entered with a QDP

instruction if the User affirmatively instructs the Exchange limit the order to providing

liquidity.[13] Thus, Users that prefer to only have their MDOs execute exclusively as the provider

of liquidity would be able to continue to do so in the same manner that they do today.

Introducing the ability for MDOs entered with a QDP instruction to remove liquidity, while

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[13]   A User would be able to instruct the Exchange to limit the order to providing liquidity
either on an order-by-order basis, or through the use of a port setting.

retaining current functionality, would therefore provide additional flexibility to market

participants without impacting order handling for Users that prefer the current functionality.

The Exchange also proposes also make certain conforming and non-substantive changes

to EDGX Rule 11.8(g). Specifically, to increase the readability of the MDO rule, the Exchange

proposes to move all rule language associated with posting instructions to EDGX Rule

11.8(g)(5), labelled "routing/posting." Currently, this subparagraph only references the fact that

MDOs are not eligible for routing to other national securities exchanges, and does not reference

order handling related to posting instructions – *i.e.*, whether and when an MDO is allowed to

remove or add liquidity. As proposed, EDGX Rule 11.8(g)(5) would incorporate language

currently included in the main section of the MDO rule that describes how such orders are

handled consistent with an instruction to only act as the liquidity provider.

First, the current rule provides that upon entry, an MDO will only execute against resting

orders that include a Super Aggressive instruction priced at the MDO's pegged price if the MDO

also contains a Displayed instruction and against orders with an NDS instruction priced at the

MDO's pegged price or within its discretionary range. The Exchange proposes to move this

discussion to EDGX Rule 11.8(g)(5) along with other language that addresses order handling

related to routing and posting. Given the proposed ability for such orders to remove liquidity in

certain circumstances, the Exchange has proposed to preface this language in the rule with

language that explains that it only applies to MDOs that do not include instructions that permit

the removal of liquidity. Thus, as proposed, EDGX Rule 11.8(g)(5) would provide that if the

instructions included on an MDO do not permit the order to remove liquidity, the MDO will only

execute on entry against resting orders that include a Super Aggressive instruction priced at the

MDO's pegged price if the MDO also contains a Displayed instruction, and against orders with

an NDS instruction priced at the MDO's pegged price or within its discretionary range. As discussed, this functionality is the same as currently applied to MDOs entered on the Exchange.

Second, the current rule provides that should a resting contra-side order within the MDO's discretionary range not include an NDS instruction, the incoming MDO will be placed on the EDGX Book and its discretionary range shortened to equal the limit price of the contra-side resting order. Similar to the above, the Exchange proposes to move this discussion to EDGX Rule 11.8(g)(5), and would make minor non-substantive changes to the language to account for the ability of certain MDOs to remove liquidity under the proposal. Thus, as proposed, EDGX Rule 11.8(g)(5) would provide that if a resting contra-side order that does not include an NDS instruction is priced within the discretionary range of an incoming MDO that *is not permitted to remove liquidity*, the incoming MDO will be placed on the EDGX Book and its discretionary range will be shortened to equal the limit price of the resting contra-side order. This language relates specifically to incoming MDOs that do not remove liquidity and are therefore not able to trade on entry with certain orders that are unwilling to perform a liquidity swap. The proposed edits to the language would therefore make clear that this handling does not apply in circumstances where an MDO is entered with instructions that permit liquidity removal.

Third, the current rule provides that where an incoming order with a Post Only instruction does not remove liquidity on entry pursuant to Rule 11.6(n)(4) against a resting MDO, the discretionary range of the resting MDO will be shortened to equal the limit price of the incoming contra-side order with a Post Only instruction. The Exchange also proposes to move this language to Rule 11.8(g)(5) as it relates to relates generally to posting instructions. However, since this handling does not depend on whether the MDO is only allowed to add

liquidity, or can both add or remove liquidity, the Exchange is not proposing to edit this language

when moving it to this subsection of the MDO rule.

Finally, in addition to the proposed changes described above, the Exchange also proposes

to amend EDGX Rule 11.8(g)(2) to allow MDOs to be entered for an odd lot size. Currently,

EDGX Rule 11.8(g)(2) specifies that MDOs may be entered as a round lot or mixed lot only, and

the Exchange does not permit Users odd lots to be entered using the MDO order type. By

contrast, the Exchange's affiliate, EDGA, does not have a similar restriction, and MDOs entered

on that exchange may therefore be entered for an odd lot size.[14] The Exchange is proposing to

similarly permit odd lot MDOs to be entered on the EDGX Book, which would allow market

participants trading on the Exchange to similarly utilize MDOs for smaller order sizes.

2.   Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[15] in

general, and furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, in that it is

designed to promote just and equitable principles of trade, 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. Specifically, the Exchange believes that the proposed rule

change is consistent with the protection of investors and the public interest as it would enable

Users that enter MDOs with a QDP instruction to optionally remove liquidity, similar to the

current handling on its affiliate, EDGA, which allows such orders to remove liquidity today. In

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14   See EDGA Rule 11.8(e)(2).

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

16   15 U.S.C. 78f(b)(5).

addition, the proposed rule change would allow Users to enter MDOs for an odd lot quantity, which is similarly consistent with the operation of MDOs entered on EDGA.

Although MDOs are currently designed to only act as the provider of liquidity, the Exchange believes that Users that enter MDOs with a QDP instruction may benefit from the ability to trade more aggressively as the remover of liquidity. The Exchange is therefore proposing to allow MDOs entered with a QDP instruction to remove liquidity, by default, while allowing Users to alternatively select to have such orders limited to providing liquidity. MDOs that are not entered with a QDP instruction, and MDOs entered with a QDP instruction where the User chooses to opt out of the ability to remove liquidity, would be handled in the same manner as they are today, thereby allowing Users to properly reflect their trading intent with their choice of instruction. As discussed, MDOs entered on the Exchange currently only act as the provider of liquidity, both on entry and upon posting to the EDGX Book. By contrast, the Exchange's affiliate, EDGA, allows such orders to both provide and remove liquidity. The Exchange believes that allowing MDOs entered with a QDP instruction to optionally act as liquidity remover, similar to the current handling on its affiliate, EDGA, would remove impediments to and perfect the mechanism of a free and open market and a national market system.

With the recent introduction of the QDP instruction, the Exchange has decided to revisit whether these orders should be allowed to remove liquidity, and has determined that such handling would be generally beneficial to market participants trading on the Exchange as it would increase the probability of such orders obtaining an execution. This change is consistent with customer feedback as some Users have indicated that they would prefer the ability to remove liquidity in order to boost fill rates for MDOs entered with a QDP instruction. At the same time, the Exchange understands that certain market participants may wish to continue to

have these orders act solely as a liquidity provider. The proposed rule change would therefore

give Users the flexibility to determine whether an MDO entered with a QDP instruction should

act solely as a liquidity provider, *i.e.*, the current functionality, or whether such orders should

instead be allowed to also remove liquidity. The Exchange believes that this change will benefit

market participants by offering functionality similar to that currently offered by its affiliate,

while providing additional flexibility with respect to how MDOs are handled by the Exchange.

In addition, the Exchange believes that the proposed non-substantive changes to its MDO

rule are consistent with just and equitable principles of trade as these changes are designed to

increase transparency around the operation of the Exchange. As proposed, the Exchange would

move certain language included in the MDO rule to the subsection of the rule that addressees

routing and posting. The proposed language to be included in that subsection is substantively the

same as the language currently included in the main text of the MDO rule, with a handful of

minor changes to reflect the fact that certain MDOs may be permitted to remove liquidity based

on User instructions. The Exchange believes that consolidating all of this language in the

subsection on routing and posting would increase the readability of the rule, and the proposed

edits to the language included in that subsection are merely designed to highlight where the

language is applicable specifically to MDOs entered with instructions that require that the order

act as the provider of liquidity. These changes are being proposed to ensure that the language

remains accurate in light of the changes to allow certain MDOs to remove liquidity. As such, the

Exchange believes that those edits would increase transparency around the operation of the

MDO order type in light of the other proposed changes addressed in this filing.

Finally, the Exchange believes that allowing MDOs to be entered for an odd lot quantity

would promote just and equitable principles of trade. As discussed, the Exchange's affiliate,

EDGA, similarly allows such orders to be entered for an odd lot size, and the Exchange believes that market participants that trade on the EDGX Book should similarly be able to enter odd lot MDOs. While the Exchange initially restricted MDOs to either round lots or mixed lots, the Exchange now believes that this limitation unnecessarily limits the availability of the MDO order type for market participants that are interested in trading smaller sized orders. Expanding MDOs to odd lot orders would therefore increase the ability for market participants to trade using this order type, including potentially benefiting Users of the recently introduced QDP instruction.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes would allow MDOs entered with a QDP instruction on EDGX to remove liquidity, which would increase flexibility offered by such orders. Although these orders do not remove liquidity today, the Exchange's affiliate, EDGA, already permits such orders to do so. Thus, the proposed rule change would allow market participants that trade on EDGX to utilize similar functionality to those that trade on its affiliated exchange today. Further, the Exchange has proposed to introduce the ability to remove liquidity as the default instruction for such orders, while allowing Users that prefer the current functionality to continue to have their orders handled in the same manner as they are today – *i.e.*, Users could chose to have these orders only add liquidity, as is the case with the current functionality. As a result, the Exchange does not believe that the proposed ability for these orders to remove liquidity would impose any significant burden on competition. Similarly, the Exchange notes that MDOs entered on the EDGA Book are permitted to be entered for an odd lot quantity. The Exchange believes that permitting odd lot

MDOs on the EDGX Book would provide similar benefits to its Users by expanding the

potential use of this order type, without imposing any significant burden on competition.

        C.   <u>Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others</u>

No written comments were either 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 protection of investors or the public interest;

        B.   impose any significant burden on competition; and

        C.   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[17] and Rule 19b-4(f)(6)[18] thereunder. 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 will institute proceedings to determine whether

the proposed rule change 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:

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[17]   15 U.S.C. 78s(b)(3)(A).

[18]   17 CFR 240.19b-4(f)(6).

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-
  CboeEDGX-2020-063 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-CboeEDGX-2020-063. 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, D.C. 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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying

information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-CboeEDGX-2020-063

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.[19]

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J. Matthew DeLesDernier
Assistant Secretary

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[19]   17 CFR 200.30-3(a)(12).