

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69669; File No. SR-EDGA-2013-14)

May 30, 2013

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA 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 May 21, 2013, 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 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 fees and rebates applicable to Members<sup>3</sup> and non-Members of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members and non-Members. 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.

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

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<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).

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 currently maintains logical ports for order entry (FIX, HP-API), drop copies (DROP), and market data (Data) (collectively, "Direct Logical Ports").<sup>4</sup> The Exchange currently offers five (5) free Direct Logical Ports and charges \$500 for each additional Direct Logical Port. Currently, Members and non-Members may send live or test symbols through their FIX and/or HP-API logical ports. Members and non-Members may choose to send test symbols via their FIX and/or HP-API logical ports in order to test their software developed to take advantage of newly implemented exchange enhancements or to test their own software updates prior to implementation.

In order to provide dedicated testing ports to Members and non-Members to conduct the testing behavior described above, the Exchange proposes to add EdgeRisk Ports ("Test Ports") to the list of Direct Logical Ports currently offered by the Exchange. Test Ports would provide Members, and non-Member service bureaus that act as conduits for orders entered by Members that are their customers, access to a System<sup>5</sup> test environment through which they can test their automated systems that integrate with the Exchange. Although Members and non-Members

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<sup>4</sup> See Securities and Exchange Act Release No. 64964 (July 26, 2011), 76 FR 45898 (August 1, 2011) (SR-EDGA-2011-22) (proposing to include logical ports that receive market data among the types of logical ports that the Exchange assesses a monthly fee to Members and non-Members). See also Securities and Exchange Act Release No. 67742 (Aug. 28, 2012), 77 FR 53951 (Sept. 4, 2012) (SR-EDGA-2012-37) (proposing to reduce the quantity of free Direct Logical Ports from ten to five).

<sup>5</sup> As defined in Exchange Rule 1.5(cc).

currently have the ability to send live and test symbols via FIX and/or HP-API logical ports, Test Ports are dedicated FIX or HP-API ports that would only allow orders for designated test symbols to flow through the production environment, rejecting any live symbols. This would provide Members and non-Members an opportunity to safely test their software developed to take advantage of newly implemented exchange enhancements or to test their own software updates prior to implementation without the risk of accidentally sending live symbols. The Exchange notes that Members and non-Members that choose not to utilize Test Ports will continue to be able to send live and test symbols via their FIX and/or HP-API logical ports.

Accordingly, the Exchange proposes to amend its fee schedule to include Test Ports in the list of the Direct Logical Ports currently offered by the Exchange. The Exchange notes that Test Ports would be included among the five free Direct Logical Ports currently offered by the Exchange to Members and non-Members. In addition, the Exchange notes that it would continue to assess a monthly fee of \$500 for every logical port Members and non-Members maintain in excess of the five free Direct Logical Ports.<sup>6</sup>

Lastly, the Exchange proposes to make a ministerial change to the text of its fee schedule by amending the phrases “DIRECT Logical Ports” to “Direct Logical Ports” and “DIRECT Sessions” to “Direct Sessions.”

The Exchange proposes to implement this proposal on June 3, 2013. The Exchange, pursuant to an information circular, will communicate to Members and non-Members that the Exchange proposed these changes in a filing with the Securities and Exchange Commission.

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<sup>6</sup> See EDGA, EDGA Exchange Fee Schedule, <https://www.directedge.com/Membership/FeeSchedule/EDGAFeeSchedule.aspx>.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>8</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.

The Exchange believes that the proposed fee structure will provide incentives to Members and non-Members to make efficient use of Test Ports while also providing market participants with the ability to safely test changes to their systems in a production environment. Recent challenges and industry experiences have highlighted the ongoing need for rigorous testing of trading software and infrastructure modifications.<sup>9</sup> In providing Members and non-Members the option to obtain and use Test Ports, the Exchange can assist market participants by providing effective ways for them to verify the completeness and correctness of their trading system modifications before transitioning those changes to their production trading environment.

The Exchange would use the revenue generated from its proposal to fund its administrative and infrastructure costs associated with allowing Members and non-Members to establish logical ports to connect to the Exchange's systems and continue to maintain and improve its infrastructure, market technology and services. The fees generated by the proposed fee amendment would cover the costs associated with responding to customer requests, configuring the Exchange's systems, programming to user specifications, and administering the

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<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> See, e.g., Securities Exchange Act Release No. 69077, 78 FR 18084 (March 25, 2013) (File No. S7-01-13) (proposing release for Regulation SCI stressing the importance of industry-wide testing to determine the behavior of automated systems under a variety of simulated conditions as a way to aid error prevention, including through the use of test facilities and test symbols).

testing service, among others. The additional revenue would offset the costs of maintaining a robust environment through which market participants can test their software modifications.

The Exchange also notes that assessing charges for Direct Logical Ports in excess of the five free ports, inclusive of the Test Ports, is reasonable because it is consistent with the practices of other exchanges, such as the BATS Exchange, Inc. and the NASDAQ OMX Group, Inc. that charge customers for logical ports.<sup>10</sup> The Exchange further notes that the purchase of Test Ports is optional as Members and Non-Members may continue to send live and test symbols via their FIX and/or HP-API logical ports without purchasing Test Ports.

Lastly, the Exchange believes that its proposal to add Test Ports to the list of Direct Logical Ports offered by the Exchange is non-discriminatory as it applies uniformly to Members and non-Members.

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

The proposed rule change does 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 the proposed amendment to the fee schedule represents a significant departure from previous Exchange fees or such fees offered by the Exchange's competitors.<sup>11</sup>

The Exchange believes that its proposal would increase competition among trading centers as a robust production testing environment enhances the quality of facilities the Exchange provides. Recent market events underscore the important need for rigorous testing of system modifications, and the Exchange has an opportunity to assist its Members and non-

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<sup>10</sup> See BATS Exchange, Inc., BATS BZX Exchange Fee Schedule, <http://batstrading.com/FeeSchedule>. See also NASDAQ OMX Group, Inc., Price List-Trading & Connectivity, <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

<sup>11</sup> Id.

Members by providing effective ways for them to verify the completeness of their modifications. Those exchanges that provide an environment that allows market participants to safely test their system modifications help their market participants to reduce errors, thereby improving the overall quality of the exchange compared to those that do not provide similar capabilities.

Additionally, Members and non-Members may opt to disfavor the Exchange's pricing if they believe that alternative venues offer them better value. Accordingly, if the Exchange is charging excessive fees, the Exchange would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

The Exchange believes that the proposed rule change would not burden intramarket competition because the purchase of Test Ports is optional and available to all Members and non-Members at rates that apply on a uniform basis.

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>12</sup> and Rule 19b-4(f)(2)<sup>13</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

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</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-EDGA-2013-14 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-EDGA-2013-14. 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-EDGA-2013-14 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>14</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).