

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-75745; File No. SR-EDGA-2015-32)

August 20, 2015

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 2.11, BATS Trading as Outbound Router

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 August 11, 2015, EDGA Exchange, Inc. (the “Exchange” or “EDGA”) 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 Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> 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 amend Rule 2.11, BATS Trading as Outbound Router, in order to conform to the rules of BATS Exchange, Inc. (“BZX”) and BATS Y-Exchange, Inc. (“BYX”).<sup>5</sup>

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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> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>5</sup> See BZX and BYX Rules 2.11. See also Securities Exchange Act Release Nos. 69744 (June 12, 2015), 78 FR 36612 (June 18, 2015) (SR-BYX-2013-018); and 69744 (June 12, 2013), 78 FR 36621 (June 18, 2015) (SR-BATS-2013-032)

The text of the proposed rule change is available at the Exchange's website at [www.batstrading.com](http://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

In early 2014, the Exchange and its affiliate, EDGX Exchange, Inc. ("EDGX"), received approval to effect a merger (the "Merger") of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BZX and BYX (together with EDGA, and EDGX, the "BGM Affiliated Exchanges").<sup>6</sup> In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system and regulatory functionality, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposal set forth below is intended to amend Rule 2.11, BATS Trading as an Outbound Router, to make such Rule identical to the corresponding

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(notices of filing and immediate effectiveness of proposed rule changes to amend BYX and BZX Rules 2.11, entitled "BATS Trading, Inc. as Outbound Router").

<sup>6</sup> See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGX-2013-043; SR-EDGA-2013-034).

Rule 2.11 on BZX and BYX. The Exchange does not propose to alter its current system functionality with regard to its use of BATS Trading, Inc. (“BATS Trading”) as an outbound router and its use of an error account. Rather, the proposed rule change is designed to provide a consistent rule set across each of the BGM Affiliated Exchanges.<sup>7</sup>

Pursuant to Exchange Rule 2.11, the Exchange relies on BATS Trading to provide outbound routing services from itself to a routing destination. Rule 2.11 also provides the authority to the Exchange or BATS Trading to cancel orders on the Exchange’s equity securities platform when a technical or system issue occurs. Rule 2.11 also describes the operation of an error account for BATS Trading. The Exchange proposes to make the amendments to Rule 2.11 described below to align each subparagraph with the corresponding subparagraph within BZX and BYX Rules 2.11.<sup>8</sup> Again, none of these proposed changes alter the authority of the Exchange or BATS Trading to cancel orders that result from a technical or system issue nor do they amend the operation of an error account for BATS Trading.

First, the Exchange proposes to make the follow ministerial changes to Rule 2.11 to conform to BZX and BYX Rules 2.11, none of which amend the substance or meaning of each section of the rule:

- Add “, Inc.” after “BATS Trading” in the title of Rule 2.11 to align with the title of BZX and BYX Rules 2.11; and

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<sup>7</sup> See BZX and BYX Rules 2.11. The Exchange notes that EDGX intends to file a similar proposal that will align the rules related to its use of BATS Trading as an outbound router across each of the BGM Affiliated Exchanges.

<sup>8</sup> The Exchange notes that it does not propose to amend Rules 2.11(a)(1) – (3) and (b) as those subparagraph are identical to BZX and BYX Rules 2.11(a)(1) – (3) and (b).

- Replace the word “accordance” with the word “compliance” in subparagraph (a)(4) to align with BZX and BYX Rules 2.11(a)(4);

None of the above changes alter the meaning of each subparagraph. They are simply intended to align each subparagraph with the corresponding subparagraph within Rule 2.11.

Second, the Exchange proposes to amend Rule 2.11(a)(6) to align with BZX and BYX Rules 2.11(a)(6). Rule 2.11(a)(6) will continue to provide that the Exchange or BATS Trading may cancel orders as either deems to be necessary to maintain fair and orderly markets if a technical or systems issue occurs at the Exchange, BATS Trading or a routing destination. The Exchange proposes to replace: (i) the phrase “if and when a systems, technical or operational issue” with “if a technical or systems issue”; and (ii) the term “Trading Center” with “routing destination.” Replacement of these terms do not alter the meaning of Rule 2.11(a)(6). Rather, they simply align the rule’s text with that of BZX and BYX Rules 2.11(a)(6). To further align the rule text with BZX and BYX Rules 2.11(a)(6), the Exchange proposes to delete the phrase “of orders” from the last sentence of Exchange Rule 2.11(a)(6). Rule 2.11(a)(6) will continue to require that the Exchange or BATS Trading provide notice of the cancellation of orders to affected Members as soon as practicable.

Third, the Exchange proposes to amend Rule 2.11(a)(7) to align with BZX and BYX Rules 2.11(a)(7). Subparagraph (a)(7) currently states the following:

BATS Trading shall maintain an error account for the purpose of liquidating an error position when such position, in the judgment of the Exchange or BATS Trading subject to the factors described herein, cannot be fairly and practicably assigned to one or more Members in its entirety. An error position can be acquired if it results from a systems, technical or operational issue experienced by BATS Trading, by the Exchange or by a

Trading Center to which BATS Trading directed an outbound order.

The Exchange proposes to replace subparagraph (a)(7) in its entirety. As amended subparagraph (a)(7) would define “Error Positions” as “positions that are the result of an execution or executions that are not clearly erroneous under Rule 11.15 and result from a technical or systems issue at BATS Trading, the Exchange, a routing destination, or a non-affiliate third-party Routing Broker that affects one or more orders.” Subparagraph (a)(7) would also continue to state that BATS Trading will maintain an error account for the purpose of addressing Error Positions. The assignment and liquidation of Error Positions discussed under current subparagraph (a)(7) will be addressed under the proposed amendments to subparagraph (a)(7)(D) discussed below.

Fourth, the Exchange proposes to amend subparagraph (a)(7)(A) to add the word “this” before “Rule 2.11(a)(7)” and capitalize reference to Error Positions to align with BZX and BYX Rules 2.11(a)(7)(A). Notwithstanding these changes, subparagraph (a)(7)(A) will continue to require that an Error Position not include any position that results from an order submitted by a Member to the Exchange that is executed on the Exchange and automatically processed for clearance and settlement on a locked-in basis.

Fifth, the Exchange proposes to amend subparagraph (a)(7)(B) to pluralize references to the term “position” to align with BZX and BYX Rules 2.11(a)(7)(B). Subparagraph (a)(7)(B) shall continue to require that, except as provided in Rule 2.11(a)(7)(C) (described below), BATS Trading not (i) accept any positions in its error account from an account of a Member, or (ii) permit any Member to transfer any positions from the Member’s account to BATS Trading’s error account.

Sixth, the Exchange proposes to amend subparagraph (a)(7)(C) to replace

reference to: (i) a “systems, technical or operational issue” with “technical or systems issue” and; (ii) “a Member’s trade” with “a Member to a trade”. As amended, subparagraph (a)(7)(C) would state that if a technical or systems issue results in the Exchange not having valid clearing instructions for a Member to a trade, BATS Trading may assume that Member’s side of the trade so that the trade can be automatically processed for clearance and settlement on a locked-in basis. These changes to align subparagraph (a)(7)(C) with BZX and BYX Rules 2.11(a)(7)(C) and do not alter its meaning or application.

Lastly, the Exchange proposes to replace subparagraphs (a)(7)(D), (E), and (F) in their entirety with new subparagraphs (D) and (E), the text of which are identical to BZX and BYX Rules 2.11(a)(7)(D) and (E). Subparagraph (D) would state that, in connection with a particular technical or systems issue, BATS Trading or the Exchange shall either (1) assign all resulting Error Positions to Members in accordance with paragraph (i) below, or (2) have all resulting Error Positions liquidated in accordance with subparagraph (ii) below. This provision is similar to current subparagraph (a)(7)(D) and (E). Subparagraph (D) would further require that any determination to assign or liquidate Error Positions, as well as any resulting assignments, shall be made in a nondiscriminatory fashion. This provision is substantially similar to current subparagraphs (a)(7)(F)(ii).

Proposed subparagraph (a)(7)(D)(i) would govern the assignment of Error Positions. Specifically, BATS Trading or the Exchange are required to assign all Error Positions resulting from a particular technical or systems issue to the Members affected by that technical or systems issue if BATS Trading or the Exchange: (i) determines under

proposed subparagraph (a)(7)(D)(i)(1) that it has accurate and sufficient information (including valid clearing information) to assign the positions to all of the Members affected by that technical or systems issue; (ii) determines under proposed subparagraph (a)(7)(D)(i)(2) that it has sufficient time pursuant to normal clearance and settlement deadlines to evaluate the information necessary to assign the positions to all of the Members affected by that technical or systems issue; and (iii) has not determined under proposed subparagraph (a)(7)(D)(i)(3) to cancel all orders affected by that technical or systems issue in accordance with subparagraph (a)(6) discussed above. These provisions are similar to current subparagraphs (a)(7)(D)(i) and (ii) as well as current subparagraphs (a)(7)(F) and (F)(i).

Proposed subparagraph (a)(7)(D)(ii) would govern the liquidation of Error Positions. Under proposed subparagraph (a)(7)(D)(ii) BATS Trading must liquidate any Error Positions as soon as practicable where it or the Exchange is unable to assign all Error Positions resulting from a particular technical or systems issue to all of the affected Members in accordance with subparagraph (D) discussed above, or if BATS Trading or the Exchange determines to cancel all orders affected by the technical or systems issue in accordance with subparagraph (a)(6) above. This provision is substantially similar to current subparagraphs (a)(7)(E).

In liquidating such Error Positions, proposed subparagraph (a)(7)(D)(ii)(1) and (2) require BATS Trading to: (i) provide complete time and price discretion for the trading to liquidate the Error Positions to a third-party broker-dealer and shall not attempt to exercise any influence or control over the timing or methods of such trading; and (ii) establish and enforce policies and procedures that are reasonably designed to restrict the

flow of confidential and proprietary information between the third-party broker-dealer and BATS Trading/the Exchange associated with the liquidation of the Error Positions.

These provisions are similar to current subparagraphs (a)(7)(E)(i) and (ii).

Proposed subparagraph (a)(7)(E) would require BATS Trading and the Exchange to make and keep records to document all determinations to treat positions as Error Positions and all determinations for the assignment of Error Positions to Members or the liquidation of Error Positions, as well as records associated with the liquidation of Error Positions through the third-party broker-dealer. This provision is substantially similar to current subparagraphs (a)(7)(F)(ii).

## 2. Statutory Basis

The Exchange believes that the proposed rule change 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.<sup>9</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>10</sup> because 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. The Exchange does not propose to alter its current system functionality with regard the treatment of Error Positions set forth under current Exchange Rules. Rather, the proposed rule change is designed to provide a consistent rule set across each of the BGM Affiliated Exchanges. As mentioned above, the proposed rule changes, combined with the planned filing for

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).



EDGX,<sup>11</sup> would allow the BGM Affiliated Exchanges to provide a consistent set of rules as it relates to the treatment of Error Positions across each of the BGM Affiliated Exchanges. Consistent rules, in turn, will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGX, BZX and/or BYX. The proposed rule change would provide greater harmonization between rules of similar purpose on the BGM Affiliated Exchanges, resulting in greater uniformity and less burdensome and more efficient regulatory compliance and understanding of Exchange Rules. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. Similarly, the Exchange also believes that, by harmonizing the rules and across each BGM Affiliated Exchange with respect to the treatment of Error Positions, the proposal will provide consistent rules and methodology for handling Error Positions across the BGM Affiliated Exchanges, meaning that the proposed rule change is equitable and will promote fairness in the market place.

(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. To the contrary, allowing the Exchange to implement substantively identical rules across each of the BGM Affiliated Exchanges regarding the treatment of Error Positions does not present any competitive issues, but rather is designed to provide greater harmonization among Exchange, EDGX, BYX, and BZX rules of similar purpose.

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<sup>11</sup> See supra note 7.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>12</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>13</sup> The proposed rule change effects a change that: (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization 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.<sup>14</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>16</sup> the Commission may designate a shorter time if such action is consistent

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

<sup>13</sup> 17 C.F.R. 240.19b-4.

<sup>14</sup> The Exchange has fulfilled this requirement.

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

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 proposal may become operative immediately upon filing. The Exchange believes that waiver of the 30-day operative delay would benefit investors because it will allow the Exchange to have consistent rules across each of the BGM Affiliated Exchanges regarding the treatment of Error Positions. The Exchange also notes that the proposed rule change does not alter its current system functionality with regard to the treatment of Error Positions set forth under current Exchange Rules. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will harmonize the treatment of Error Positions across the BGM Affiliated Exchanges. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.<sup>17</sup>

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 proposal is consistent with the Act.

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<sup>17</sup> For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 No. SR-EDGA-2015-32 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-EDGA-2015-32. 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 am and 3:00 pm. 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-

EDGA-2015-32 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>18</sup>

Robert W. Errett  
Deputy Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).