

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61860; File No. 4-597)

April 7, 2010

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Notice of Filing of Proposed Plan for the Allocation of Regulatory Responsibilities Between EDGA Exchange, Inc. and the Financial Industry Regulatory Authority, Inc.

Pursuant to Section 17(d) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 17d-2 thereunder,² notice is hereby given that on April 2, 2010, EDGA Exchange, Inc. (“EDGA”) and the Financial Industry Regulatory Authority, Inc. (“FINRA”) (together with EDGA, the “Parties”) filed with the Securities and Exchange Commission (“Commission”) a plan for the allocation of regulatory responsibilities, dated March 31, 2010 (the “17d-2 Plan”). The Commission is publishing this notice to solicit comments on the 17d-2 Plan from interested persons.

I. Introduction

Section 19(g)(1) of the Act,³ among other things, requires every self-regulatory organization (“SRO”) registered as either a national securities exchange or registered national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO’s own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)⁴ or Section 19(g)(2)⁵ of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more

¹ 15 U.S.C. 78q(d).

² 17 CFR 240.17d-2.

³ 15 U.S.C. 78s(g)(1).

⁴ 15 U.S.C. 78q(d).

⁵ 15 U.S.C. 78s(g)(2).

than one SRO (“common members”). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act⁶ was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.⁷ With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d-1 and Rule 17d-2 under the Act.⁸ Rule 17d-1 authorizes the Commission to name a single SRO as the designated examining authority (“DEA”) to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.⁹ When an SRO has been named as a common member’s DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d-1 deals only with an SRO’s obligations to enforce member compliance with financial responsibility requirements. Rule 17d-1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

⁶ 15 U.S.C. 78q(d)(1).

⁷ See Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Session 32 (1975).

⁸ 17 CFR 240.17d-1 and 17 CFR 240.17d-2, respectively.

⁹ See Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d-2 under the Act.¹⁰ Rule 17d-2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d-2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d-2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. Proposed 17d-2 Plan

The proposed 17d-2 Plan is intended to reduce regulatory duplication for firms that are common members of both EDGA and FINRA.¹¹ Pursuant to the proposed 17d-2 Plan, FINRA would assume certain examination and enforcement responsibilities for common members with respect to certain applicable laws, rules, and regulations.

The text of the 17d-2 Plan delineates the proposed regulatory responsibilities between the Parties. Included in the 17d-2 Plan is an attachment (“EDGA Certification for 17d-2 Agreement with FINRA” referred to herein as the “Certification”) that lists every EDGA rule and select federal securities laws, rules and regulations for which FINRA would bear responsibility under the 17d-2 Plan for overseeing and enforcing with respect to EDGA members that are also members of FINRA and the associated persons therewith (“Dual Members”).

¹⁰ See Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

¹¹ The proposed 17d-2 Plan refers to these common members as “Dual Members.” See Paragraph 1(c) of the proposed 17d-2 Plan.

Specifically, under the 17d-2 Plan, FINRA would assume examination and enforcement responsibility relating to compliance by Dual Members with the rules of EDGA that are substantially similar to the applicable rules of FINRA, as well as any provisions of the federal securities laws and the rules and regulations thereunder delineated in the Certification (“Common Rules”).¹² Common Rules would not include the application of any EDGA Rule or FINRA rule, or any rule or regulation under the Act, to the extent that it pertains to violations of insider trading activities, because such matters are covered by a separate multiparty agreement under Rule 17d-2.¹³ In the event that a Dual Member is the subject of an investigation relating to a transaction on EDGA, the 17d-2 Plan acknowledges that EDGA may, in its discretion, exercise concurrent jurisdiction and responsibility for such matter.¹⁴

Under the 17d-2 Plan, EDGA would retain full responsibility for surveillance, examination, investigation, and enforcement with respect to trading activities or practices involving EDGA’s own marketplace, including, without limitation, registration pursuant to its unique rules (*i.e.*, non-common rules); its duties as a DEA pursuant to Rule 17d-1 under the Act;

¹² See paragraph 1(b) of the 17d–2 plan (defining Common Rules). See also paragraph 1(f) of the proposed 17d-2 Plan (defining Regulatory Responsibilities). Paragraph 2 of the 17d-2 Plan provides that annually, or more frequently as required by changes in either EDGA rules or FINRA rules, the parties shall review and update, if necessary, the list of Common Rules. Further, paragraph 3 of the Plan provides that EDGA shall furnish FINRA with a list of Dual Members, and shall update the list no less frequently than once each calendar quarter.

¹³ See Securities Exchange Act Release No. 58350 (August 13, 2008), 73 FR 48247 (August 18, 2008) (File No. 4-566) (notice of filing of proposed plan). See also Securities Exchange Act Release Nos. 58536 (September 12, 2008) (File No. 4-566) (order approving and declaring effective the plan) and 58806 (October 17, 2008) (File No. 4-566) (order approving and declaring effective an amendment to the plan). The Certification identifies several Common Rules that may also be addressed in the context of regulating insider trading activities pursuant to the proposed separate multiparty agreement.

¹⁴ See paragraph 6 of the proposed 17d-2 Plan.

and any rules that are not Common Rules, except for EDGA rules for any broker-dealer subsidiary of Direct Edge Holdings LLC.¹⁵

The text of the proposed 17d-2 Plan is as follows:

**AGREEMENT BETWEEN FINRA AND
EDGA EXCHANGE, INC. PURSUANT TO
RULE 17d-2 UNDER THE SECURITIES EXCHANGE ACT OF 1934**

This Agreement, by and between the Financial Industry Regulatory Authority (“FINRA”) and EDGA Exchange, Inc. (“EDGA”), is made this 31st day of March, 2010 (the “Agreement”), pursuant to Section 17(d) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 17d-2 thereunder which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA and EDGA may be referred to individually as a “party” and together as the “parties.”

WHEREAS, FINRA and EDGA desire to reduce duplication in the examination of their Dual Members (as defined herein) and in the filing and processing of certain registration and membership records; and

WHEREAS, FINRA and EDGA desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d-2 under the Exchange Act and to file such agreement with the Securities and Exchange Commission (the “SEC” or “Commission”) for its approval.

NOW, THEREFORE, in consideration of the mutual covenants contained hereinafter, FINRA and EDGA hereby agree as follows:

¹⁵ Apparent violations of such EDGA rules by any broker-dealer subsidiary of Direct Edge Holdings LLC will be processed by, and enforcement proceedings will be conducted by, FINRA. See paragraphs 2(d) and 6 of the 17d-2 Plan. As of the date of this Agreement, Direct Edge ECN LLC is the only broker-dealer subsidiary of Direct Edge Holdings LLC.

1. Definitions. Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) “EDGA Rules” or “FINRA Rules” shall mean: (i) the rules of EDGA, or (ii) the rules of FINRA, respectively, as the rules of an exchange or association are defined in Exchange Act Section 3(a)(27).

(b) “Common Rules” shall mean the EDGA Rules that are substantially similar to the applicable FINRA Rules and certain provisions of the Exchange Act and SEC rules set forth on Exhibit 1 in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the such provisions or rule, or a Dual Member’s activity, conduct, or output in relation to such rule; provided however, Common Rules shall not include the application of the SEC, EDGA or FINRA rules as they pertain to violations of insider trading activities, which is covered by a separate 17d-2 Agreement by and among the American Stock Exchange, LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Arca Inc., NYSE Regulation, Inc., and Philadelphia Stock Exchange, Inc. effective October 17, 2008, as may be amended from time to time.

(c) “Dual Members” shall mean those EDGA members that are also members of FINRA and the associated persons therewith.

(d) “Effective Date” shall be the date this Agreement is approved by the Commission.

(e) “Enforcement Responsibilities” shall mean the conduct of appropriate proceedings, in accordance with FINRA’s Code of Procedure (the Rule 9000 Series) and other applicable FINRA procedural rules, to determine whether violations of Common Rules have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under FINRA’s Code of Procedure and sanctions guidelines.

(f) “Regulatory Responsibilities” shall mean the examination responsibilities and Enforcement Responsibilities relating to compliance by the Dual Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on Exhibit 1 attached hereto.

2. Regulatory and Enforcement Responsibilities. FINRA shall assume Regulatory Responsibilities and Enforcement Responsibilities for Dual Members. Attached as Exhibit 1 to this Agreement and made part hereof, EDGA furnished FINRA with a current list of Common Rules and certified to FINRA that such rules are substantially similar to the corresponding FINRA rule (the “Certification”). FINRA hereby agrees that the rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in either the rules of EDGA or FINRA, EDGA shall submit an updated list of Common Rules to FINRA for review which shall add EDGA Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete EDGA Rules included in the current list of Common Rules that

no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining rules on the current list of Common Rules continue to be EDGA Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term “Regulatory Responsibilities” does not include, and EDGA shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) the following:

- (a) surveillance, examination, investigation and enforcement with respect to trading activities or practices involving EDGA’s own marketplace;
- (b) registration pursuant to its applicable rules of associated persons (i.e., registration rules that are not Common Rules);
- (c) discharge of its duties and obligations as a Designated Examining Authority pursuant to Rule 17d-1 under the Exchange Act, if applicable; and
- (d) any EDGA Rules that are not Common Rules, except for EDGA Rules for any broker-dealer subsidiary of Direct Edge Holdings LLC , as provided in paragraph 6.

3. Dual Members. Prior to the Effective Date, EDGA shall furnish FINRA with a current list of Dual Members, which shall be updated no less frequently than once each quarter.

4. No Charge. There shall be no charge to EDGA by FINRA for performing the Regulatory Responsibilities and Enforcement Responsibilities under this Agreement except as hereinafter provided. FINRA shall provide EDGA with ninety (90) days advance written notice in the event FINRA decides to impose any charges to EDGA for performing the Regulatory Responsibilities under this Agreement. If FINRA determines to impose a charge, EDGA shall

have the right at the time of the imposition of such charge to terminate this Agreement; provided, however, that FINRA's Regulatory Responsibilities under this Agreement shall continue until the Commission approves the termination of this Agreement.

5. Applicability of Certain Laws, Rules, Regulations or Orders. Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the SEC. To the extent such statute, rule, or order is inconsistent with one or more provisions of this Agreement, the statute, rule, or order shall supersede the provision(s) hereof to the extent necessary to be properly effectuated and the provision(s) hereof in that respect shall be null and void.

6. Notification of Violations.

(a) In the event that FINRA becomes aware of apparent violations of any EDGA Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify EDGA of those apparent violations for such response as EDGA deems appropriate.

(b) In the event that EDGA becomes aware of apparent violations of any Common Rules, discovered pursuant to the performance of the Retained Responsibilities, EDGA shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement.

(c) With respect to apparent violations of any EDGA Rules by any broker-dealer subsidiary of EDGA's holding company, Direct Edge Holdings LLC, FINRA shall not make referrals to EDGA pursuant to this paragraph 6. Such apparent violations shall

be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA as provided in this Agreement.

(d) Apparent violations of Common Rules and FINRA rules shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a Dual Member is the subject of an investigation relating to a transaction on EDGA, EDGA may in its discretion assume concurrent jurisdiction and responsibility.

(e) Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings.

7. Continued Assistance.

(a) FINRA shall make available to EDGA all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder in respect to the Dual Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish EDGA any information it obtains about Dual Members which reflects adversely on their financial condition. EDGA shall make available to FINRA any information coming to its attention that reflects adversely on the financial condition of Dual Members or indicates possible violations of applicable laws, rules or regulations by such firms.

(b) The parties agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations. Neither party shall assert regulatory or other privileges as against the other

with respect to documents or information that is required to be shared pursuant to this Agreement.

(c) The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver against third parties of regulatory or other privileges relating to the discovery of documents or information.

8. **Statutory Disqualifications.** When FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a Dual Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep EDGA advised of its actions in this regard for such subsequent proceedings as EDGA may initiate.

9. **Customer Complaints.** EDGA shall forward to FINRA copies of all customer complaints involving Dual Members received by EDGA relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

10. **Advertising.** FINRA shall assume responsibility to review the advertising of Dual Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is accompanied with any applicable filing fees set forth in FINRA Rules.

11. **No Restrictions on Regulatory Action.** Nothing contained in this Agreement shall restrict or in any way encumber the right of either party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Dual Members, as either party, in its sole discretion, shall deem appropriate or necessary.

12. Termination. This Agreement may be terminated by EDGA or FINRA at any time upon the approval of the Commission after one (1) year's written notice to the other party, except as provided in paragraph 4.

13. Arbitration. In the event of a dispute between the parties as to the operation of this Agreement, EDGA and FINRA hereby agree that any such dispute shall be settled by arbitration in Washington, D.C., in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. Each party acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business operations of the other party. In the event of a dispute between the parties, the parties shall continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with its provisions. Nothing in Section 13 shall interfere with a party's right to terminate this Agreement as set forth herein.

14. Notification of Members. EDGA and FINRA shall notify Dual Members of this Agreement after the Effective Date by means of a uniform joint notice.

15. Amendment. This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

16. Limitation of Liability. Neither FINRA nor EDGA nor any of their respective directors, governors, officers or employees shall be liable to the other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as

provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or the other of FINRA or EDGA and caused by the willful misconduct of the other party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by FINRA or EDGA with respect to any of the responsibilities to be performed by each of them hereunder.

17. Relief from Responsibility. Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d-2 thereunder, FINRA and EDGA join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve EDGA of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

18. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each party has executed or caused this Agreement to be executed on its behalf by a dully authorized officer as of the date first written above.

EDGA EXCHANGE, INC.

By: _____
Name:
Title:

**FINANCIAL INDUSTRY REGULATORY
AUTHORITY**

By: _____
Name:
Title:

EDGA EXCHANGE, INC. CERTIFICATION

EDGA Certification for 17d-2 Agreement with FINRA

EDGA Exchange, Inc. hereby certifies that the requirements contained in the rules listed below are identical to, or substantially similar to, the comparable FINRA (NASD) Rule, Exchange Act provision or SEC rule identified (“Common Rules”).

Rule 2.5, Interpretation and Policy .04, The Regulatory Element of Continuing Education Requirement for Authorized Traders of Members	NASD Rule 1120(a)(1)-(4) Continuing Education Requirements
Rule 3.1 Business Conduct of Members	FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade*
Rule 3.2 Violations Prohibited ¹⁶	FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade and 3010 Supervision*
Rule 3.3 Use of Fraudulent Devices	FINRA Rule 2020 Use of Manipulative, Deceptive or Other Fraudulent Device
Rule 3.5(a) Advertising Practices	NASD Rule 2210(d)(1)(B) Communications with the Public
Rule 3.5(b) Advertising Practices	NASD Rule 2210(d)(2)(C) Communications with the Public
Rule 3.5(c) Advertising Practices	NASD Rule 2210(d)(1) Communications with the Public
Rule 3.5(d) Advertising Practices	NASD Rule 2210(b)(1) Communications with the Public
Rule 3.5(e) Advertising Practices	NASD Rule 2210(b)(2)(A) and 2210(c) Communications with the Public
Rule 3.5(f) Advertising Practices	NASD Rule 2210(d)(2)(A) and 2210(d)(1)(E) Communications with the Public
Rule 3.5(g) Advertising Practices	NASD Rule 2210(d)(1) Communications with the Public
Rule 3.5(h) Advertising Practices	NASD Rule 2210(d)(1) Communications with the Public
Rule 3.6 Fair Dealing with Customers	NASD Rule IM-2310-2(b)(1), (2), (4)(A)(i), (4)(A)(iii), (4)(A)(iv), and (5) Fair Dealing with Customers
Rule 3.7(a) Recommendations to Customers	NASD Rule 2310(a) Recommendations to Customers (Suitability)
Rule 3.8(a) The Prompt Receipt and Delivery of Securities	NASD Rule 3370 Purchases
Rule 3.8(b) The Prompt Receipt and Delivery of Securities	SEC Regulation SHO
Rule 3.9 Charges for Services Performed	NASD Rule 2430 Charges for Services Performed

¹⁶ FINRA shall only have Regulatory Responsibility regarding the first phrase of the EDGA rule regarding prohibitions from violating the Securities Exchange Act of 1934 and the rules and regulations thereunder; responsibility for the remainder of the Rule shall remain with EDGA.

Rule 3.10 Use of Information	FINRA Rule 2060 Use of Information Obtained in Fiduciary Capacity
Rule 3.11 Publication of Transactions and Quotations	FINRA Rule 5210 Publication of Transactions and Quotations
Rule 3.12 Offers at Stated Prices	FINRA Rule 5220 Offers at Stated Prices
Rule 3.14 Disclosure on Confirmations	NASD Rule 2230 Confirmations and SEA Rule 10b-10 Confirmation of Transactions
Rule 3.15 Disclosure of Control	FINRA Rule 2262 Disclosure of Control Relationship With Issuer
Rule 3.16 Discretionary Accounts	NASD Rule 2510 Discretionary Accounts
Rule 3.17 Customer's Securities or Funds	FINRA Rule 2150(a) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts
Rule 3.18 Prohibition Against Guarantees	FINRA Rule 2150(b) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts
Rule 3.19 Sharing in Accounts; Extent Permissible	FINRA Rule 2150(c)(1) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts
Rule 4.1 Requirements	Section 17 of the Exchange Act and the rules thereunder
Rule 4.3 Record of Written Complaints	NASD Rule 3110(d) and (e) Books and Records**
Rule 4.4 Disclosure of Financial Condition	NASD Rule 2270 Disclosure of Financial Condition to Customers & SEA Rule 17a-5(c)
Rule 5.1 Written Procedures	NASD Rule 3010(b)(1) Supervision – Written Procedures*
Rule 5.2 Responsibility of Members	NASD Rule 3010(a)(4) and (b)(4) Supervision*
Rule 5.3 Records	NASD Rule 3010(a)(1), (b) and (c) Supervision*
Rule 5.4 Review of Activities	NASD Rule 3010(c)(1) Supervision – Internal Inspections*
Rule 5.5 Information Barrier Procedures	Section 15(f) of Exchange Act
Rule 5.6 Anti-Money Laundering Compliance Program	FINRA Rule 3310 Anti-Money Laundering Compliance Program
Rule 9.3 Predispute Arbitration Agreements	NASD Rule 3110(f) Books and Records (Requirements When Using Predispute Arbitration Agreements for Customer Accounts)
Rule 12.3 Excessive Sales By A Member	FINRA Rule 6140(c) Other Trading Practices***
Rule 12.5 Dissemination of False Information	FINRA Rule 6140(e) Other Trading Practices***
Rule 12.11 Best Execution	NASD Rule 2320 Best Execution and Interpositioning
Rule 12.13 Trading Ahead of Research Reports	FINRA Rule 5280 Trading Ahead of Research Reports
Rule 13.3 Forwarding of Issuer Materials	FINRA Rule 2251 Forwarding of Proxy and Other Issuer-Related Materials

In addition, the following provisions shall be part of this 17d-2 Agreement:

SEC Rules:

Rule 200 of Regulation SHO – Definition of “Short Sale” and Marking Requirements

Rule 203 of Regulation SHO – Borrowing and Delivery Requirements

Rule 606 of Regulation NMS – Disclosure of Order Routing Information

Rule 607 of Regulation NMS – Customer Account Statements

* FINRA shall not have any Regulatory Responsibilities for these rules as they pertain to violations of insider trading activities, which is covered by a separate 17d-2 Agreement by and among the American Stock Exchange, LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Arca Inc., NYSE Regulation, Inc., and Philadelphia Stock Exchange, Inc. effective October 17, 2008, as may be amended from time to time.

** FINRA shall only have any Regulatory Responsibilities for the first three years regarding EDGA’s five year requirement of keeping and preserving a file of all written complaints of customers and action taken by the Member in respect thereof.

*** FINRA shall not have any Regulatory Responsibilities for these rules as they pertain to trading practices involving securities that do not meet the definition of NMS stock as defined in Rule 600(b)(47) of SEC Regulation NMS.

* * * * *

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

Pursuant to Section 17(d)(1) of the Act¹⁷ and Rule 17d-2 thereunder,¹⁸ after [insert date 15 days from publication in the Federal Register], the Commission may, by written notice, declare the plan submitted by EDGA and FINRA, File No. 4-597, to be effective if the Commission finds that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the development of the national market system and a national system for the clearance and settlement of securities transactions and in conformity with the factors set forth in Section 17(d) of the Act.

IV. Solicitation of Comments

In order to assist the Commission in determining whether to approve the proposed 17d-2 Plan and to relieve EDGA of the responsibilities which would be assigned to FINRA, interested persons are invited to submit written data, views, and arguments concerning the foregoing.

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number 4-597 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.

¹⁷ 15 U.S.C. 78q(d)(1).

¹⁸ 17 CFR 240.17d-2.

All submissions should refer to File Number 4-597. 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 Web site (<http://www.sec.gov/rules/other.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed 17d-2 Plan that are filed with the Commission, and all written communications relating to the proposed 17d-2 Plan 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 Web site 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 proposed 17d-2 Plan also will be available for inspection and copying at the principal office of the EDGA and FINRA. 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 4-597 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Florence E. Harmon
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(34).