

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-80186; File No. SR-BatsEDGX-2017-12)

March 9, 2017

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Fees for Use on Bats EDGX Exchange, Inc.

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 February 28, 2017, Bats EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change 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 the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

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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)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

The text of the proposed rule change is available at the Exchange's website at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend its fee schedule to remove the Single MPID Cross-Asset Tier under footnote 1, Add Volume Tiers. The Exchange determines the liquidity adding rebate that it will provide to Members using the Exchange's tiered pricing structure. Currently, the Exchange offers enhanced rebates under ten Add Volume Tiers set forth in footnote 1 of the fee schedule for orders that yield fee codes B,<sup>6</sup> V,<sup>7</sup> Y,<sup>8</sup> 3,<sup>9</sup> and 4.<sup>10</sup> Under such pricing structure,

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<sup>6</sup> Fee code B is appended to orders which add liquidity to EDGX (Tape B) and receives a rebate of 0.00200 per share. See the Exchange's fee schedule available at [http://www.bats.com/us/equities/membership/fee\\_schedule/edgx/](http://www.bats.com/us/equities/membership/fee_schedule/edgx/).

<sup>7</sup> Fee code V is appended to orders which add to EDGX (Tape A) and receives a rebate of 0.00200 per share. Id.

<sup>8</sup> Fee code Y is appended to orders which add liquidity to EDGX (Tape C) and receives a rebate of 0.00200 per share. Id.

<sup>9</sup> Fee code 3 is appended to orders which add liquidity to EDGX, pre and post market (Tapes A or C) and receives a rebate of 0.00200 per share. Id.

a Member will receive a rebate between \$0.0025 and \$0.0033 per share executed, depending on the tier for which such Member qualifies. The Exchange now proposes to amend the Add Volume Tiers under footnote 1 to remove the Single MPID Cross-Asset Tier. Under the Single MPID Cross-Asset Tier, a Member receives an enhanced rebate of \$0.0030 per share where their MPID has: (i) on the Exchange's equity options platform ("EDGX Options") an ADAV<sup>11</sup> in Market Maker<sup>12</sup> orders greater than or equal to 0.12% of average OCV<sup>13</sup>; and (ii) an ADAV greater than or equal to 0.12% of average TCV<sup>14</sup>. The Exchange is proposing to eliminate the tier because it has not achieved the desired effect, despite being designed to incentivize Members to add liquidity on both the Exchange's equities platform and EDGX Options.

#### Implementation Date

The Exchange proposes to implement this amendment to its fee schedule on March 1, 2017.

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<sup>10</sup> Fee code 4 is appended to orders which add liquidity to EDGX, pre and post market (Tape B) and receives a rebate of 0.00200 per share. Id.

<sup>11</sup> "ADAV" means average daily added volume calculated as the number of shares added per day and ADV is calculated on a monthly basis. See the Exchange's fee schedule available at [http://www.bats.com/us/equities/membership/fee\\_schedule/edgx/](http://www.bats.com/us/equities/membership/fee_schedule/edgx/).

<sup>12</sup> "Market Maker" means any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). Id.

<sup>13</sup> "OCC Customer Volume" or "OCV" means, for purposes of equities pricing, the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close, using the definition of Customer as provided under the Exchange's fee schedule for EDGX Options. Id.

<sup>14</sup> "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. Id.

## 2. Statutory Basis

The Exchange believes that the proposed removal of the Single MPID Cross-Asset Tier is consistent with the objectives of Section 6 of the Act,<sup>15</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>16</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. As described above, the enhanced rebate offered under this tier has not affected Members' behavior in the manner originally conceived by the Exchange – to incentivize Members to add liquidity on both the Exchange's equities platform and EDGX Options. While the Exchange acknowledges the benefit of Members entering orders that add liquidity in two asset classes, the Exchange has generally determined that it is providing an additional rebate for liquidity that would be added on the Exchange regardless of whether the tier existed. As such, the Exchange also believes that the proposed elimination of the Single MPID Cross-Asset Tier would be non-discriminatory in that it currently applies equally to all Members and, upon elimination, would no longer be available to any Members. Further, its [sic] elimination will allow the Exchange to explore other pricing mechanisms in which it may enhance market quality for all Members.

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

The Exchange does not believe its proposal to remove the Single MPID Cross-Asset Tier under footnote 1 would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. But rather, this proposal would enhance the Exchange's ability to compete with other market centers. As described above, the Exchange believes that it is offering enhanced rebates for orders that would be submitted to the Exchange without the

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

<sup>16</sup> 15 U.S.C. 78f(b)(4).

enhanced rebate, which prevents the Exchange from being able to offer other rebates or reduced fees that might be able to enhance market quality to the benefit of all Members. As such, removing the Single MPID Cross-Asset Tier will allow the Exchange other opportunities to enhance market quality on the Exchange and ultimately, better compete with other market centers.

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>17</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>18</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 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

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<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-BatsEDGX-2017-12 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-BatsEDGX-2017-12. 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 No. SR-BatsEDGX-2017-12, 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>19</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).