

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70134; File No. SR-EDGX-2013-26)

August 8, 2013

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX 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 July 30, 2013, 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 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> pursuant to EDGX Rule 15.1(a) and (c) ("Fee Schedule") to increase the fee charged from \$0.0017 per share to \$0.0050 per share for orders that yield Flag RW, which routes to CBOE Stock Exchange, LLC ("CBSX") and adds liquidity. All of the changes described herein are applicable to EDGA 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.

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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> "Member" is defined as "any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a "member" of the Exchange as that term is defined in Section 3(a)(3) of the Act." EDGX Rule 1.5(n).

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 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 proposes to amend its Fee Schedule to increase the fee charged from \$0.0017 per share to \$0.0050 per share for orders that yield Flag RW, which routes to CBSX and adds liquidity.

In securities priced at or above \$1.00, the Exchange currently assesses a fee of \$0.0017 per share for Members' orders that yield Flag RW. The Exchange proposes to amend its Fee Schedule to increase this fee to \$0.0050 per share for Members' orders that yield Flag RW. The proposed change represents a pass through of the rate of \$0.0050 that Direct Edge ECN LLC (d/b/a DE Route) ("DE Route"), the Exchange's affiliated routing broker-dealer, is charged for routing orders in select symbols to CBSX when it does not qualify for a volume tiered discount.<sup>4</sup> DE Route passes through this rate on CBSX to the Exchange and the Exchange, in turn, passes through this rate to its Members.

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<sup>4</sup> The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on CBSX, its rate for Flag RW will not change.

The Exchange notes that the proposed change is in response to CBSX's July 2013 fee change where CBSX exempted select symbols out of its standard fee structure.<sup>5</sup> Instead, CBSX amended its fee schedule to assess a fee of \$0.0050 per share for maker transactions in such symbols and a rebate of \$0.0045 per share for taker transactions in such symbols.<sup>6</sup> The Exchange notes that its internal billing system is unable to assign different rates by symbols. Therefore, due to internal system limitations and to protect the Exchange from potentially significant financial loss for orders routed to CBSX in the select symbols, it is necessary that the Exchange assess a flat fee of \$0.0050 per share for all orders that yield Flag RW. The Exchange further notes that routing through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the \$0.0050 per share fee directly to CBSX if they so choose.

#### Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on August 1, 2013.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of 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

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<sup>5</sup> Securities Exchange Act Release No. 69916 (July 2, 2013), 78 FR 41158 (July 9, 2013) (SR-CBOE-2013-065). CBSX lists these select symbols in footnote 6 to its fee schedule. CBSX, CBOE Stock Exchange Fees Schedule, available at, <http://www.cboe.com/publish/cbsxfeeschedule/cbsxfeeschedule.pdf> (last visited July 23, 2013).

<sup>6</sup> CBSX, CBOE Stock Exchange Fees Schedule, available at, <http://www.cboe.com/publish/cbsxfeeschedule/cbsxfeeschedule.pdf> (last visited July 23, 2013).

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

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

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.

#### Fee Change for Flag RW

The Exchange believes that its proposal to increase the charge for Members' orders that yield Flag RW from \$0.0017 to \$0.0050 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange is passing through the higher add charge levied by CBSX for orders that the Exchange routes to CBSX through DE Route. Prior to CBSX's July 2013 fee change, CBSX charged DE Route a fee of \$0.0017 per share for orders yielding Flag RW, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In July 2013, CBSX increased the rate it charges its customers, such as DE Route, from a charge of \$0.0017 per share to a charge of \$0.0050 per share for orders in select symbols that are routed to CBSX.<sup>9</sup> Therefore, the Exchange believes that the proposed change in Flag RW from a fee of \$0.0017 per share to a fee of \$0.0050 per share is equitable and reasonable because it accounts for the pricing changes on CBSX.

In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to CBSX and add liquidity using DE Route. The Exchange notes that its internal billing system is unable assign different rates by symbols. Therefore, due to internal system limitations and to protect the Exchange from potentially significant financial loss for the select symbols, it is necessary that the Exchange assess a flat fee of \$0.0050 per share for all orders that yield Flag RW. Further, the Exchange notes that routing

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<sup>9</sup> Securities Exchange Act Release No. 69916 (July 2, 2013), 78 FR 41158 (July 9, 2013) (SR-CBOE-2013-065).

through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the \$0.0050 per share fee directly to CBSX if they so choose. Lastly, the Exchange believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

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

These proposed rule changes do 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 any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by any of the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange believes that the proposed changes would not impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange believes that its proposal to pass through a charge of \$0.0050 per share for Members' orders that yield Flag RW would increase intermarket competition because it offers customers an alternative means to route to CBSX for the same price as entering orders in select symbols on CBSX directly. The Exchange notes that routing through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the \$0.0050 per share fee directly to CBSX if they so choose. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

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 The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(2)<sup>11</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 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-EDGX-2013-26 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.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4 (f)(2).

All submissions should refer to File Number SR-EDGX-2013-26. 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-EDGX-2013-26 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>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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