

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input style="width: 40px;" type="text" value="23"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input style="width: 40px;" type="text" value="2011"/> - * <input style="width: 40px;" type="text" value="05"/> Amendment No. (req. for Amendments *) <input style="width: 60px;" type="text"/>
Proposed Rule Change by EDGA Exchange, Inc. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934		
Initial * <input checked="" type="checkbox"/> Amendment * <input type="checkbox"/> Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/> Section 19(b)(3)(A) * <input checked="" type="checkbox"/> Section 19(b)(3)(B) * <input type="checkbox"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="text" value=""/>	Date Expires * <input style="width: 80px;" type="text"/>	
Exhibit 2 Sent As Paper Document <input type="checkbox"/> Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
<b>Description</b> Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *). <div style="border: 1px solid black; padding: 5px; min-height: 40px;">           EDGA Exchange, Inc. proposes to amend EDGA Rules 11.5, 11.9, and 11.15 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO.         </div>		
<b>Contact Information</b> Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change. First Name * <input style="width: 200px;" type="text" value="Eric"/> Last Name * <input style="width: 200px;" type="text" value="Hess"/> Title * <input style="width: 500px;" type="text" value="General Counsel"/> E-mail * <input style="width: 500px;" type="text" value="ehess@directedge.com"/> Telephone * <input style="width: 100px;" type="text" value="(201) 942-8239"/> Fax <input style="width: 100px;" type="text"/>		
<b>Signature</b> Pursuant to the requirements of the Securities Exchange Act of 1934,  has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.  Date <input style="width: 80px;" type="text" value="02/25/2011"/> By <input style="width: 200px;" type="text" value="Eric W. Hess"/> General Counsel <input style="width: 300px;" type="text"/> <div style="text-align: center; margin-top: 10px;"> <span>(Name *)</span> <span style="margin-left: 200px;">(Title *)</span> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.</p> </div> <div style="width: 35%; text-align: center;"> <div style="border: 1px solid black; padding: 5px; background-color: #cccccc;">             Eric Hess, ehess@directedge.com           </div> </div> </div>		

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information (required)**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change (required)**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) EDGA Exchange, Inc. (“EDGA” or the “Exchange”), proposes to amend EDGA Rules 11.5, 11.9, and 11.15 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO.<sup>1</sup> The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange’s website at [www.directedge.com](http://www.directedge.com), at the Exchange’s principal office, and at the Public Reference Room of the Commission.
- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on April 27, 2010. Exchange staff will advise the EDGA Exchange Board of Directors of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change. Therefore, the Exchange’s internal procedures with respect to the proposed change are complete.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Eric W. Hess  
General Counsel  
EDGA Exchange  
201-942-8239

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

(a) Purpose

On February 26, 2010, the Securities and Exchange Commission (“Commission”) adopted amendments to Regulation SHO under the Securities Exchange Act of 1934 (“Act”) in the form of Rule 201,<sup>2</sup> pursuant to which, among other things,

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<sup>1</sup> 17 CFR 242.200(g); 17 CFR 242.201.

<sup>2</sup> See Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule

short sale orders in covered securities<sup>3</sup> generally cannot be executed or displayed by a trading center<sup>4</sup> such as EDGA at a price that is at or below the current national best bid (“NBB”)<sup>5</sup> when a short sale circuit breaker is in effect for the covered security (the “short sale price test restriction”).<sup>6</sup> In anticipation of the upcoming February 28, 2011 compliance date for Rule 201, the Exchange is proposing to amend certain EDGA rules to describe the manner in which the System<sup>7</sup> will handle short sell orders when a short sale price test restriction is triggered under Rule 201 of Regulation SHO. These changes include establishing

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200(g) of Regulation SHO was also amended to include a “short exempt” marking requirement. The amendments to Rule 201 and Rule 200(g) have a compliance date of February 28, 2011. See Securities Exchange Act Release No. 63247 (November 4, 2010), 75 FR 68702 (November 9, 2010). See also Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO.

- <sup>3</sup> Rule 201(a)(1) defines the term “covered security” to mean any “NMS stock” as defined under Rule 600(b)(47) of Regulation NMS. Rule 600(b)(47) of Regulation NMS defines an “NMS stock” as “any NMS security other than an option.” Rule 600(b)(46) of Regulation NMS defines an “NMS security” as “any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.” 17 CFR 242.201(a)(1); 17 CFR 242.600(b)(46); and 17 CFR 242.600(b)(47).
- <sup>4</sup> Rule 201(a)(9) states that the term “trading center” shall have the same meaning as in Rule 600(b)(78) of Regulation NMS. Rule 600(b)(78) defines a “trading center” as “a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.” 17 CFR 242.600(b)(78).
- <sup>5</sup> Rules 201(a)(4) defines the term “national best bid” to have the same meaning as in Rule 600(b)(42) of Regulation NMS. 17 CFR 242.600(b)(42).
- <sup>6</sup> 17 CFR 242.201(b)(1). See also Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 2.1 and 2.2 (concerning the duration of a short sale price test restriction).
- <sup>7</sup> The “System” is defined in EDGA Rule 1.5(aa) as “the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.”

a definition for “short sale price sliding,” which is a new form of price sliding<sup>8</sup> the Exchange proposes to offer when the amendments to Regulation SHO become operative, modifying certain EDGA rules regarding order execution and routing when a short sale price test restriction is in effect, and modifying EDGA rules related to order marking requirements.

The Exchange proposes to offer a new form of price sliding, short sale price sliding, which will be defined in EDGA Rule 11.5(c)(4). As a default, the Exchange will subject a User’s<sup>9</sup> EDGA Only Orders to the short sale price sliding in proposed Rule 11.5(c)(4)(B) unless they affirmatively choose to opt-out of the process. As proposed, when a User opts out of the short sale price sliding process, any short sale order that could not be executed or displayed due to a short sale price test restriction would be rejected or cancelled by the Exchange upon entry or while resting on the order book, respectively. When a User’s EDGA Only Order is subject to the short sale price sliding process, as proposed in Rule 11.5(c)(4)(B), if it cannot be executed or displayed at the time of entry due to a short sale price test restriction, it will be re-priced by the System to prevent execution or display at or below the current NBB to comply with Rule 201(b)(1)(i).<sup>10</sup> Any EDGA Only Order subject to such re-pricing by the System will be re-priced to display at one minimum price variation (“MPV”) above the current NBB (“Permitted Price”). The order will receive a new timestamp when it is re-priced. Following the initial adjustment provided for in proposed Rule 11.5(c)(4)(B), the EDGA Only Order will, to reflect declines in the NBB, continue to be re-priced at the lowest Permitted Price down to the order’s original limit price, or if a market order, until the order is filled. The order will receive a new timestamp each time it is re-priced. Alternatively, following the initial adjustment provided for in Rule 11.5(c)(4)(B), the EDGA Only Order may, in accordance with the User’s instructions, provided that in all cases the display of such lower prices does not violate Rule 201 of Regulation SHO: (i) be re-priced one additional time to a price that is above the current NBB but equal to the NBB at the time the EDGA Only Order was received and receive a new timestamp; or (ii) not be adjusted further. In the event the NBB changes such that the price of a Non-Displayed Order, as defined in EDGA Rule 11.5(c)(8), subject to short sale price sliding would lock or cross the NBB, the Non-Displayed Order will receive

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<sup>8</sup> The Exchange currently offers a process called “displayed price sliding process,” as defined in current EDGA Rule 11.5(c)(4), which re-prices and/or displays orders at permissible prices when such orders would lock or cross Protected Quotations in a manner inconsistent with Rule 610(d) of Regulation NMS.

<sup>9</sup> A “User” is defined in EDGA Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

<sup>10</sup> Any execution or display will also need to be in compliance with applicable rules regarding minimum pricing increments. 17 CFR 242.612.

a new timestamp, and will be re-priced by the System to a Permitted Price, again in compliance with Rule 201(b)(1)(i).<sup>11</sup>

As proposed, EDGA Only Orders marked “short exempt” will not be subject to short sale price sliding. Certain displayed short sale orders will not be re-priced by the System after entry because under Rule 201(b)(1)(iii)(A) a trading center’s policies and procedures must be reasonably designed to permit the execution of short sale orders of covered securities that were displayed at a price above the current NBB at the time of initial display. “Short exempt” orders also will not be re-priced by the System, but instead, the Exchange will execute, display and/or route such orders without regard to whether the order is at a price less than or equal to the NBB or any short sale price test restriction in effect under Regulation SHO, as described below.

The Exchange also proposes to amend its Rule 11.9 to make clear that it will execute, display and route an order consistent with Rule 201 of Regulation SHO, and that if it cannot do so, orders will be cancelled back to the applicable User. In addition, the Exchange proposes to make clear that it will not route orders away from the Exchange that are marked “short” if a short sale price test restriction is in effect for the covered security. Instead, such orders, if immediate-or-cancel (“IOC”) will be cancelled, and all other orders will be posted to the EDGA Book,<sup>12</sup> treated as if they are EDGA Only Orders, as defined in Rule 11.5(c)(4), and subjected to the short sale price sliding process.<sup>13</sup>

Finally, current Rule 11.15 requires Users to identify short sale orders as “short” when entered into the System. The Exchange proposes to add the term “short exempt” to Rule 11.15 because pursuant to amended Rule 200(g) of Regulation SHO, a broker-dealer can mark a short sale order as either “short” or “short exempt.”<sup>14</sup> The Exchange also proposes to make clear in Rule 11.15 that if an order it received is marked “short exempt,” the Exchange will execute, display

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<sup>11</sup> See Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 4.1 (concerning un-displayed orders).

<sup>12</sup> As defined in EDGA Rule 1.5(d).

<sup>13</sup> Like with an EDGA Only Order, a User can affirmatively choose to opt-out of the short sale price sliding process.

<sup>14</sup> 17 CFR 242.200(g). Rule 200(g)(2) provides that a sale order shall be marked “short exempt” only if the provisions of paragraphs (c) or (d) of Rule 201 of Regulation SHO are met. See also Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 5.4 and 5.5.

and/or route the order without regard to whether the order is at a price less than or equal to the NBB or any short sale price test restriction in effect under Regulation SHO.<sup>15</sup> The Exchange also proposes to make clear, as it does in Rule 11.5(d)(1) with respect to intermarket sweep orders, that it relies on a Member's<sup>16</sup> marking of an order, in this case the "short exempt" marking, when handling such order. Accordingly, proposed Rule 11.15 states that it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation SHO relating to marking of orders as "short exempt."<sup>17</sup>

(b) Statutory Basis

The Exchange believes that its proposal 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>18</sup> In particular, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>19</sup> because it would promote just and equitable principles of trade, and, in general, protect investors and the public interest. The Exchange believes that the proposed changes will provide clarity on the short sale order handling procedures employed by the Exchange and certain obligations of Members when sending short sale orders to the Exchange consistent with Regulation SHO, as amended. The Exchange also believes that the proposed short sale price sliding functionality will assist Users in executing or displaying their orders consistent with Regulation SHO, especially under fast moving conditions where the national best bid/offer is quickly updating. In addition, as is currently the case, the short sale price sliding process is optional to Users. Specifically, Users can choose to opt-out of the short sale price sliding process, and if they choose to do so, the Exchange will cancel back their orders when such orders contradict the provisions of Regulation SHO.

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<sup>15</sup> 17 CFR 242.201(b)(1)(iii)(B).

<sup>16</sup> A Member is defined in EDGA Rule 1.5(l) 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.

<sup>17</sup> 17 CFR 242.200(g)(2). See also 17 CFR 242.201(c); 17 CFR 242.201(d). See also Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 4.2, 5.4, and 5.5.

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

4. 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>20</sup> of the Act and Rule 19b-4(f)(6)<sup>21</sup> thereunder. 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.

The Exchange provided the Commission with 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.<sup>22</sup>

The rule change is designed to amend EDGA Rules 11.5, 11.9, and 11.15 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO. In addition, the Exchange notes that the proposal does not propose any new policies or provisions that are unique or unproven. Rather, the

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<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

<sup>22</sup> 17 CFR 240.19b-4(f)(6)(iii).

proposed rule change is similar to proposed changes to BATS Rules 11.9, 11.13, and 11.19 made in light of the implementation of amendments to Regulation SHO.<sup>23</sup> For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4.

The Exchange intends to implement the rule change on or before February 28, 2011. The Exchange believes that the benefits to Users expected from the proposed rule change should not be delayed.

Based on the foregoing, the Exchange believes that its proposal should become immediately effective and requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>24</sup> Waiver of this requirement will allow the Exchange to have systems and order types that are in compliance with the amendments to Regulation SHO no later than February 28, 2011 to coincide with the compliance date for amendments to Rules 200(g) and 201 of Regulation SHO.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule text is similar to proposed changes to BATS Rules 11.9, 11.13, and 11.19.

9. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register

Exhibit 5 – Text of Proposed Rule Change

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<sup>23</sup> See SR-BATS-2011-002 (January 14, 2011).

<sup>24</sup> 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-EDGA-2011-05)

[Date]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGA Rules 11.5, 11.9, and 11.15 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO

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 25, 2011 the EDGA Exchange, Inc. (the "Exchange" or the "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 EDGA Rules 11.5, 11.9, and 11.15 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO.<sup>3</sup> The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange's 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> 17 CFR 242.200(g); 17 CFR 242.201.

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 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 Statutory Basis for, the Proposed Rule Change

Purpose

On February 26, 2010, the Securities and Exchange Commission (“Commission”) adopted amendments to Regulation SHO under the Securities Exchange Act of 1934 (“Act”) in the form of Rule 201,<sup>4</sup> pursuant to which, among other things, short sale orders in covered securities<sup>5</sup> generally cannot be executed or displayed by a trading center<sup>6</sup> such

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<sup>4</sup> See Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a “short exempt” marking requirement. The amendments to Rule 201 and Rule 200(g) have a compliance date of February 28, 2011. See Securities Exchange Act Release No. 63247 (November 4, 2010), 75 FR 68702 (November 9, 2010). See also Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO.

<sup>5</sup> Rule 201(a)(1) defines the term “covered security” to mean any “NMS stock” as defined under Rule 600(b)(47) of Regulation NMS. Rule 600(b)(47) of Regulation NMS defines an “NMS stock” as “any NMS security other than an option.” Rule 600(b)(46) of Regulation NMS defines an “NMS security” as “any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.” 17 CFR 242.201(a)(1); 17 CFR 242.600(b)(46); and 17 CFR 242.600(b)(47).

as EDGA at a price that is at or below the current national best bid (“NBB”)<sup>7</sup> when a short sale circuit breaker is in effect for the covered security (the “short sale price test restriction”).<sup>8</sup> In anticipation of the upcoming February 28, 2011 compliance date for Rule 201, the Exchange is proposing to amend certain EDGA rules to describe the manner in which the System<sup>9</sup> will handle short sell orders when a short sale price test restriction is triggered under Rule 201 of Regulation SHO. These changes include establishing a definition for “short sale price sliding,” which is a new form of price sliding<sup>10</sup> the Exchange proposes to offer when the amendments to Regulation SHO become operative, modifying certain EDGA rules regarding order execution and routing when a short sale price test restriction is in effect, and modifying EDGA rules related to order marking requirements.

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<sup>6</sup> Rule 201(a)(9) states that the term “trading center” shall have the same meaning as in Rule 600(b)(78) of Regulation NMS. Rule 600(b)(78) defines a “trading center” as “a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.” 17 CFR 242.600(b)(78).

<sup>7</sup> Rules 201(a)(4) defines the term “national best bid” to have the same meaning as in Rule 600(b)(42) of Regulation NMS. 17 CFR 242.600(b)(42).

<sup>8</sup> 17 CFR 242.201(b)(1). See also Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 2.1 and 2.2 (concerning the duration of a short sale price test restriction).

<sup>9</sup> The “System” is defined in EDGA Rule 1.5(aa) as “the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.”

<sup>10</sup> The Exchange currently offers a process called “displayed price sliding process,” as defined in current EDGA Rule 11.5(c)(4), which re-prices and/or displays orders at permissible prices when such orders would lock or cross Protected Quotations in a manner inconsistent with Rule 610(d) of Regulation NMS.

The Exchange proposes to offer a new form of price sliding, short sale price sliding, which will be defined in EDGA Rule 11.5(c)(4). As a default, the Exchange will subject a User's<sup>11</sup> EDGA Only Orders to the short sale price sliding in proposed Rule 11.5(c)(4)(B) unless they affirmatively choose to opt-out of the process. As proposed, when a User opts out of the short sale price sliding process, any short sale order that could not be executed or displayed due to a short sale price test restriction would be rejected or cancelled by the Exchange upon entry or while resting on the order book, respectively. When a User's EDGA Only Order is subject to the short sale price sliding process, as proposed in Rule 11.5(c)(4)(B), if it cannot be executed or displayed at the time of entry due to a short sale price test restriction, it will be re-priced by the System to prevent execution or display at or below the current NBB to comply with Rule 201(b)(1)(i).<sup>12</sup> Any EDGA Only Order subject to such re-pricing by the System will be re-priced to display at one minimum price variation ("MPV") above the current NBB ("Permitted Price"). The order will receive a new timestamp when it is re-priced. Following the initial adjustment provided for in proposed Rule 11.5(c)(4)(B), the EDGA Only Order will, to reflect declines in the NBB, continue to be re-priced at the lowest Permitted Price down to the order's original limit price, or if a market order, until the order is filled. The order will receive a new timestamp each time it is re-priced. Alternatively, following the initial adjustment provided for in Rule 11.5(c)(4)(B), the EDGA Only Order may, in accordance with the User's instructions, provided that in all cases the display of such lower prices does not violate Rule 201 of Regulation SHO: (i)

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<sup>11</sup> A "User" is defined in EDGA Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

<sup>12</sup> Any execution or display will also need to be in compliance with applicable rules regarding minimum pricing increments. 17 CFR 242.612.

be re-priced one additional time to a price that is above the current NBB but equal to the NBB at the time the EDGA Only Order was received and receive a new timestamp; or (ii) not be adjusted further. In the event the NBB changes such that the price of a Non-Displayed Order, as defined in EDGA Rule 11.5(c)(8), subject to short sale price sliding would lock or cross the NBB, the Non-Displayed Order will receive a new timestamp, and will be re-priced by the System to a Permitted Price, again in compliance with Rule 201(b)(1)(i).<sup>13</sup>

As proposed, EDGA Only Orders marked “short exempt” will not be subject to short sale price sliding. Certain displayed short sale orders will not be re-priced by the System after entry because under Rule 201(b)(1)(iii)(A) a trading center’s policies and procedures must be reasonably designed to permit the execution of short sale orders of covered securities that were displayed at a price above the current NBB at the time of initial display. “Short exempt” orders also will not be re-priced by the System, but instead, the Exchange will execute, display and/or route such orders without regard to whether the order is at a price less than or equal to the NBB or any short sale price test restriction in effect under Regulation SHO, as described below.

The Exchange also proposes to amend its Rule 11.9 to make clear that it will execute, display and route an order consistent with Rule 201 of Regulation SHO, and that if it cannot do so, orders will be cancelled back to the applicable User. In addition, the Exchange proposes to make clear that it will not route orders away from the Exchange that are marked “short” if a short sale price test restriction is in effect for the covered security. Instead, such orders, if immediate-or-cancel (“IOC”) will be cancelled, and all

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<sup>13</sup> See Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 4.1 (concerning un-displayed orders).

other orders will be posted to the EDGA Book,<sup>14</sup> treated as if they are EDGA Only Orders, as defined in Rule 11.5(c)(4), and subjected to the short sale price sliding process.<sup>15</sup>

Finally, current Rule 11.15 requires Users to identify short sale orders as “short” when entered into the System. The Exchange proposes to add the term “short exempt” to Rule 11.15 because pursuant to amended Rule 200(g) of Regulation SHO, a broker-dealer can mark a short sale order as either “short” or “short exempt.”<sup>16</sup> The Exchange also proposes to make clear in Rule 11.15 that if an order it received is marked “short exempt,” the Exchange will execute, display and/or route the order without regard to whether the order is at a price less than or equal to the NBB or any short sale price test restriction in effect under Regulation SHO.<sup>17</sup> The Exchange also proposes to make clear, as it does in Rule 11.5(d)(1) with respect to intermarket sweep orders, that it relies on a Member’s<sup>18</sup> marking of an order, in this case the “short exempt” marking, when handling such order. Accordingly, proposed Rule 11.15 states that it is the entering Member’s responsibility, not the Exchange’s responsibility, to comply with the requirements of

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<sup>14</sup> As defined in EDGA Rule 1.5(d).

<sup>15</sup> Like with an EDGA Only Order, a User can affirmatively choose to opt-out of the short sale price sliding process.

<sup>16</sup> 17 CFR 242.200(g). Rule 200(g)(2) provides that a sale order shall be marked “short exempt” only if the provisions of paragraphs (c) or (d) of Rule 201 of Regulation SHO are met. See also Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 5.4 and 5.5.

<sup>17</sup> 17 CFR 242.201(b)(1)(iii)(B).

<sup>18</sup> A Member is defined in EDGA Rule 1.5(l) 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.

Regulation SHO relating to marking of orders as “short exempt.”<sup>19</sup>

Basis

The Exchange believes that its proposal 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>20</sup> In particular, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>21</sup> because it would promote just and equitable principles of trade, and, in general, protect investors and the public interest. The Exchange believes that the proposed changes will provide clarity on the short sale order handling procedures employed by the Exchange and certain obligations of Members when sending short sale orders to the Exchange consistent with Regulation SHO, as amended. The Exchange also believes that the proposed short sale price sliding functionality will assist Users in executing or displaying their orders consistent with Regulation SHO, especially under fast moving conditions where the national best bid/offer is quickly updating. In addition, as is currently the case, the short sale price sliding process is optional to Users. Specifically, Users can choose to opt-out of the short sale price sliding process, and if they choose to do so, the Exchange will cancel back their orders when such orders contradict the provisions of Regulation SHO.

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<sup>19</sup> 17 CFR 242.200(g)(2). See also 17 CFR 242.201(c); 17 CFR 242.201(d). See also Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 4.2, 5.4, and 5.5.

<sup>20</sup> 15 U.S.C. 78f(b).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

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.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>22</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>23</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>24</sup> normally does not become operative prior to 30 days after the date of the filing.<sup>25</sup> However, pursuant to Rule

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<sup>22</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>23</sup> 17 CFR 240.19b-4(f)(6).

<sup>24</sup> 17 CFR 240.19b-4(f)(6).

<sup>25</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self regulatory organization submit to 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. The Exchange has satisfied this requirement.

19b4(f)(6)(iii),<sup>26</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may implement the change no later than February 28, 2011 to coincide with the compliance date for the amendments to Rules 200(g) and 201 of Regulation SHO. The Commission believes that waiving the 30-day operative delay is consistent with the protection of the investors and the public interest because such waiver would ensure compliance with the Commission's amendments to Rules 200(g) and 201 of Regulation SHO. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.

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
- Send an E-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-EDGA-2011-05 on the subject line.

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<sup>26</sup> 17 CFR 240.19b-4(f)(6)(iii).

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-EDGA-2011-05. 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 Commissions Internet Web site (<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 inspection and copying in the Commission's Public Reference Room. Copies of such 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-2011-05 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>27</sup>

Secretary

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<sup>27</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5****Additions underlined****Deletions [bracketed]****Rule 11.5 Orders and Modifiers**

Users may enter into the System the types of orders listed in this Rule 11.5, subject to the limitations set forth in this Rule or elsewhere in these Rules.

(a) – (b) (No changes.)

*(c) Other Types of Orders and Modifiers.* Unless an order's instructions require it to be displayed on the Exchange or routed to an away trading center(s), an order may include instructions to be non displayed. All order types and modifiers listed below, except for those set forth in Rules 11.5(c)(2), (9)-(11) may also include instructions to be non displayed.

(1)- (3) (No changes.)

(4) *EDGA Only Order.* An order that is to be ranked and executed on the Exchange pursuant to Rule 11.8 and Rule 11.9(b)(1) or cancelled, without routing away to another trading center. The System will default to the displayed price sliding process and short sale price sliding process for an EDGA Only Order unless the User has entered instructions not to use any of the processes.

(A) An EDGA Only Order that, at the time of entry, would cross a Protected Quotation will be repriced to the locking price and ranked at such price in the EDGA Book. An EDGA Only Order that, if at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation will be displayed by the System at one minimum price variation ("MPV") below the current NBO (for bids) or to one MPV [minimum price variation] above the current NBB (for offers) (collectively, the "displayed price sliding process"). In the event the NBBO changes such that the EDGA Only Order at the original locking price would not lock or cross a Protected Quotation, the order will receive a new timestamp, and will be displayed at the original locking price. [The System will default to the displayed price sliding process for an EDGA Only Order unless the User has entered instructions not to use the displayed price sliding process.]

(B) An EDGA Only Order that, at the time of entry, could not be executed or displayed pursuant to Rule 201 of Regulation SHO will be re-priced by the System to prevent execution or display at or below the current NBB (such entire process called the "short sale price sliding process"). Any EDGA Only order subject to such re-pricing by the System will be re-priced to display at one MPV above the current NBB ("Permitted Price"). Following the initial adjustment provided for in this paragraph (B), the EDGA Only Order will, to reflect declines in the NBB, continue to be re-priced at the lowest Permitted Price down to the order's original limit

price, or if a market order, until the order is filled. The order will receive a new timestamp each time it is re-priced.

(C) Alternatively, following the initial adjustment provided for in paragraph (B), the EDGA Only Order may, in accordance with the User's instructions, provided that in all cases the display or execution of such lower prices does not violate Rule 201 of Regulation SHO: (i) be re-priced one additional time to a price that is above the current NBB but equal to the NBB at the time the EDGA Only Order was received and receive a new timestamp; or (ii) not be adjusted further.

(D) In the event the NBB changes such that the price of a Non-Displayed Order subject to short sale price sliding would lock or cross the NBB, the Non-Displayed Order will receive a new timestamp, and will be re-priced by the System to a Permitted Price .

(E) EDGA Only Orders marked "short exempt" shall not be subject to the short sale price sliding process.

(5) *Post Only Order.* An order that is to be ranked and executed on the Exchange pursuant to Rule 11.8 and Rule 11.9(b)(1) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the EDGA Book absent an order instruction to the contrary. A EDGA Post Only Order will be subject to the displayed price sliding process and short sale price sliding process unless a User has entered instructions not to use [the displayed price sliding process] either or both processes as set forth in paragraph (c)(4) above.

(6) – (14) (No changes.)

(d) – (e) (No changes.)

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## Rule 11.9. Order Execution

(a) Subject to the restrictions [on short sales] under these Exchange Rules or the Act and the rules and regulations thereunder, orders shall be matched for execution in accordance with this Rule 11.9. For any execution of a short sale order to occur on the Exchange when a short sale price test restriction under Rule 201 of Regulation SHO is in effect for the covered security, the price must be above the current NBB, unless the sell order was initially displayed by the System at a price above the then current NBB or is marked "short exempt" pursuant to Regulation SHO. For any execution to occur during Regular Trading Hours, [however,] the price must be equal to or better than the Protected NBBO, unless the order is marked ISO or unless the execution falls within another exception set forth in Rule 611(b) of Regulation NMS. For any execution to occur during the Pre-Opening Session or the Post-Closing Session, the price must be equal to or better than the highest bid or lowest offer. For purposes of this Rule 11.9, any order falling within the

parameters of this paragraph shall be referred to as “executable.” An order will be cancelled back to the User, if based on market conditions, User instructions, applicable Exchange Rules and /or the Act and the rules and regulations thereunder, such order is not executable, cannot be routed to another trading center pursuant to Rule 11.9(b)(2) below and cannot be posted to the EDGA Book.

*(b) Execution and Routing.*

*(1) Execution against EDGA Book.* An incoming order shall first attempt to be matched for execution against orders in the EDGA Book.

(A) An incoming order to buy will be automatically executed to the extent that it is priced at an amount that equals or exceeds any order to sell in the EDGA Book and is executable, as defined above. Such order to buy shall be executed at the price(s) of the lowest order(s) to sell having priority in the EDGA Book.

(B) An incoming order to sell will be automatically executed to the extent that it is priced at an amount that equals or is less than any other order to buy in the EDGA Book and is executable, as defined above. Such order to sell shall be executed at the price(s) of the highest order(s) to buy having priority in the EDGA Book.

(C) No change.

*(2) Routing to Away Trading Centers.* Unless the terms of the order direct the Exchange not to route such order away (*e.g.*, a EDGA Only Order), if a market or marketable limit order has not been executed in its entirety pursuant to paragraph (b)(1) above, the order shall be eligible for routing away pursuant to one or more of the routing options listed under paragraph (b)(3) below. An order marked “short” when a short sale price test restriction is in effect is not eligible for routing by the Exchange. If an order is ineligible for routing due to the short sale price test restriction of Rule 201 of Regulation SHO and such order is an IOC order, then the order will be cancelled. For any other order ineligible for routing due to a short sale price test restriction, the Exchange will post the unfilled balance of the order to the EDGA Book, treat the order as if it was an EDGA Only Order, and subject it to the short sale price sliding process, as described in Rule 11.5(c)(4).

(A) Routing of Market Orders. With respect to an order that is eligible for routing, [T]the System will designate market orders as IOC or ISO and will cause such orders to be routed for execution to one or more Trading Centers (as defined in Rule 2.11) for potential execution, per the entering User’s instructions, in compliance with Rule 611 under Regulation NMS. After the System receives responses to orders that were routed away, to the extent an order is not executed in full through the routing process, the System will process the balance of such order as follows. Depending on parameters set by the User when the incoming order was originally entered, the System will either: (i) process the unfilled balance of an order as a EDGA Only Order pursuant to Rule 11.5(c)(4), or (ii) repeat the process described in paragraph (b)(1) above and this paragraph (b)(2)(A) by executing against the EDGA Book and/or routing orders to other market centers until the original, incoming order is executed in its entirety.

(B) Routing of Marketable Limit Orders. With respect to an order that is eligible for routing, [T]he System will designate marketable limit orders as IOC or ISO and will cause such orders to be routed for execution to one or more Trading Centers (as defined in Rule 2.11) for potential execution, per the entering User's instructions, in compliance with Rule 611 under Regulation NMS. After the System receives responses to orders that were routed away, to the extent an order is not executed in full through the routing process, the System will process the balance of such order as follows. Depending on parameters set by the User when the incoming order was originally entered, the System will either: (i) process the unfilled balance of an order as a EDGA Only Order pursuant to Rule 11.5(c)(4), or (ii) repeat the process described in paragraph (b)(1) above and this paragraph (b)(2)(B) by executing against the EDGA Book and/or routing orders to other market centers until the original, incoming order is executed in its entirety or its limit price is reached. If the order's limit price is reached, the order will be posted in the EDGA Book.

(3) No change.

(c)-(f) No change.

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#### Rule 11.15. Short Sales

All short sale orders shall be identified as[a] "short" [sale] or "short exempt" when entered into the System. If marked "short exempt," the Exchange shall execute, display and/or route an order without regard to any short sale price test restriction in effect under Regulation SHO. The Exchange relies on the marking of an order as "short exempt" when handling such order, and thus, it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation SHO relating to marking of orders as "short exempt."

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