

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="23"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2011"/> - * <input type="text" value="39"/> Amendment No. (req. for Amendments *) <input type="text"/>
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Proposed Rule Change by EDGX 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"/>
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <input type="text"/>			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 checked="" type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *).

Contact Information
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 * Last Name *
 Title *
 E-mail *
 Telephone * Fax

Signature
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
 By Chief Regulatory Officer
 (Name *) (Title *)

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.

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

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

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) EDGX Exchange, Inc. (“Exchange” or “EDGX”) proposes to amend its fees and rebates applicable to Members¹ of the Exchange pursuant to EDGX Rule 15.1(a) and (c). Text of the proposed rule change is attached as Exhibit 5.
- (b) Inapplicable.
- (c) Inapplicable.

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 EDGX 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 person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Thomas N. McManus
Chief Regulatory Officer
EDGX Exchange
201-418-3417

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

(a) Purpose

The Exchange proposes to amend its fee schedule to add footnote b to it to specify that trading activity on days when the market closes early² does not count toward any volume tiers, which are currently found in footnotes 1, 6, and 11.

The Exchange proposes to amend the Super Tier to lower the rebate from \$0.0030 per share to \$0.0028 per share.

¹ A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

² In 2012, these days include July 3, 2012, November 23, 2012, and December 24, 2012.

The Exchange proposes to amend the following tier to lower the rebate to \$0.0028 per share as well: Members that post 0.065% of the TCV in average daily volume more than their February 2011 average daily volume added to EDGX will qualify for a \$0.0029 per share rebate (unless they otherwise qualify for a higher rebate) (the “0.065% TCV Tier”).

The Exchange proposes to add another method to qualify for the Mega Tier rebate of \$0.0032 per share if Members add or route at least 4,000,000 shares of average daily volume prior to 9:30 AM or after 4:00 PM (includes all flags except 6) and adds a minimum of .20% of the Total Consolidated Volume (TCV) on a daily basis measured monthly, including during both market hours and/or pre and post-trading hours.

The Exchange proposes to implement these amendments to its fee schedule on January 1, 2012.

(b) Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Exchange Act,³ in general, and furthers the objectives of Section 6(b)(4),⁴ 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.

The Exchange proposes to amend its schedule to add footnote b to specify that trading activity on days when the market closes early does not count toward volume tiers (footnotes 1, 6, and 11). Since the Exchange is only open until 1PM Eastern Time (“ET”) on these days (e.g., the day after Thanksgiving),⁵ the Exchange believes that counting volume on these days towards the tiers would not be illustrative of typical market activity or liquidity provision, since the trading day is shortened. Therefore, the Exchange proposes to exclude such shortened trading days from any volume tier calculations, as presently found in footnotes numbers 1, 6, and 11. The Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members and would more accurately represent their trading volume. In addition, the proposed amendment is in accordance with the practices employed by other Exchanges.⁶

³ 15 U.S.C. 78f.

⁴ 15 U.S.C. 78f(b)(4).

⁵ In 2012, these days include July 3, 2012, November 23, 2012, and December 24, 2012.

⁶ See fee schedules of Nasdaq and NYSE Arca found at: <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>; and https://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_arca_marketplace_fees_12_1_2011.pdf

The reduction in rebate of the Super Tier from \$0.0030 per share to \$0.0028 per share is an equitable allocation of reasonable dues, fees, and other charges as the additional revenue that results from the lower rebate enables the Exchange to cover increased infrastructure and administrative expenses. In addition, when the Exchange lowered its removal rate from \$0.0030 per share to \$0.0029 per share (October 2012), a more significant percentage of EDGX members achieved inverted rates, where the rebate paid to Members for adding liquidity was more than the removal rate of \$0.0029 per share. Given this result, and since the Super Tier has less stringent criteria than either the Mega Tier or Ultra Tier, the Exchange is proposing to moderate the rate and decrease the rebate so that the maker/taker spread is no longer inverted for such a large percentage of Members.

The Exchange believes that the reduced rebate for the Super Tier and the alternative criteria to qualify for the Mega Tier rebate of \$0.0032 per share also represents an equitable allocation of reasonable dues, fees, and other charges since higher rebates are directly correlated with more stringent criteria.

The Mega Tier rebates of \$0.0034/\$0.0032 per share have the most stringent criteria associated with them, and are \$0.0003/\$0.0001 greater than the Ultra Tier rebate (\$0.0031 per share) and \$0.0006/\$0.0004 greater than the proposed Super Tier rebate (\$0.0028 per share).

For example, in order for a Member to qualify for the Mega Tier rebate of \$0.0034, the Member would have to add or route at least 4,000,000 shares of average daily volume during pre and post-trading hours and add a minimum of 20,000,000 shares of average daily volume on EDGX in total, including during both market hours and pre and post-trading hours. The criteria for this tier is the most stringent as fewer Members generally trade during pre and post-trading hours because of the limited time parameters associated with these trading sessions. The Exchange believes that this higher rebate awarded to Members would incent liquidity during these trading sessions. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of a higher rebate.

Another way a Member can qualify for the Mega Tier (with a rebate of \$0.0032 per share) would be to post 0.75% of TCV. Based on average TCV for November 2011 (8.0 billion), this would be 60 million shares on EDGX. A second method to qualify for the rebate of \$0.0032 per share would be to post 0.12% of the TCV (9.6 million shares) more than the Member's February 2011 average daily volume added to EDGX. Assuming the Member's February 2011 ADV is 1 million shares, the Exchange believes that requiring Members to post 10.6 million more shares than a February 2011 baseline average daily volume encourages Members to add increasing amounts of liquidity to EDGX each month. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of a higher

rebate. The increased liquidity also benefits all investors by deepening EDGX's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Volume-based rebates such as the one proposed herein have been widely adopted in the cash equities markets, and are equitable because they are open to all members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes.

In order to qualify for the proposed Mega Tier rebate of \$0.0032 per share, a Member would have to add or route at least 4,000,000 shares of average daily volume prior to 9:30 AM or after 4:00 PM (includes all flags except 6) and add a minimum of .20% of the Total Consolidated Volume ("TCV") on a daily basis measured monthly, including during both market hours and/or pre and post-trading hours. Based on an average TCV for November 2011 (8.0 billion shares), a Member would qualify by adding 16 million shares during both market hours and/or pre and post-trading hours and adding or routing at least 4,000,000 shares of average daily volume during pre and post-trading hours. The Exchange notes that fewer Members generally trade during pre and post-trading hours because of the limited time parameters associated with these trading sessions. Therefore, the amount of shares that the Exchange requires to be added or routed to satisfy this tier is less than for the Ultra Tier⁷, for example, which is based on posting liquidity to EDGX during regular trading hours. The Exchange believes that this higher rebate awarded to Members would incent liquidity during these trading sessions. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of a higher rebate. The Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members.

In order to qualify for the Ultra Tier, which has less stringent criteria than the Mega Tier, the Member would have to post 0.50% of TCV. Based on average TCV for November 2011 (8.0 billion shares), this would be 40 million shares on EDGX.

Finally, the Super Tier has the least stringent criteria of the tiers mentioned above. In order for a Member to qualify for this rebate, the Member would have to post at least 10 million shares on EDGX and would qualify for the amended rebate of \$0.0028 per share. As stated above, these rebates also result, in part, from lower administrative and other costs associated with higher volume. The reduction in rebate would allow the Exchange to recoup additional revenue to recover increased infrastructure and administrative expenses. This rebate also results, in part, from lower administrative and other costs associated with higher volume. The Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members.

⁷

See discussion in next paragraph regarding Ultra Tier.

The reduction in rebate of the 0.065% TCV Tier from \$0.0030 per share to \$0.0028 per share is an equitable allocation of reasonable dues, fees, and other charges as the additional revenue that results from the lower rebate enables the Exchange to cover increased infrastructure and administrative expenses. This tier allows Members even greater flexibility with respect to achieving an additional rebate and rewards growth patterns in volume by Members as this rebate's conditions encourage Members to add increasing amounts of liquidity to EDGX each month. Based on an average daily volume in February 2011 (baseline) of 1,000,000 shares, the Member would have to add 6.2 million shares total to qualify for such rebate. This rebate also results, in part, from lower administrative and other costs associated with higher volume. The Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members.

The Exchange also notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

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

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

5. 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.

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)

(a) This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act.

(b) This proposed rule change establishes dues, fees or other charges among its members and, as such, may take effect upon filing with the Commission pursuant to Exchange Act Section 19(b)(3)(A).

- (c) Inapplicable.
- (d) Inapplicable.
- 8. Proposed Rule change Based on Rules of Another Self-Regulatory Organization or of the Commission

This proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

- 9. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Publication in the *Federal Register*.

Exhibit 5 – Text of the Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-EDGX-2011-39

[Date]

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"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 30, 2011, the EDGX Exchange, Inc. (the "Exchange" or the "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

EDGX Exchange, Inc. ("EDGX" or the "Exchange"), proposes to amend its fees and rebates applicable to Members³ of the Exchange pursuant to EDGX Rule 15.1(a) and (c). Text of the proposed rule change is attached as Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

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 Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange proposes to amend its fee schedule to add footnote b to it to specify that trading activity on days when the market closes early⁴ does not count toward any volume tiers, which are currently found in footnotes 1, 6, and 11.

The Exchange proposes to amend the Super Tier to lower the rebate from \$0.0030 per share to \$0.0028 per share.

The Exchange proposes to amend the following tier to lower the rebate to \$0.0028 per share as well: Members that post 0.065% of the TCV in average daily volume more than their February 2011 average daily volume added to EDGX will qualify for a \$0.0029 per share rebate (unless they otherwise qualify for a higher rebate) (the "0.065% TCV Tier").

The Exchange proposes to add another method to qualify for the Mega Tier rebate of \$0.0032 per share if Members add or route at least 4,000,000 shares of

⁴ In 2012, these days include July 3, 2012, November 23, 2012, and December 24, 2012.

average daily volume prior to 9:30 AM or after 4:00 PM (includes all flags except 6) and adds a minimum of .20% of the Total Consolidated Volume (TCV) on a daily basis measured monthly, including during both market hours and/or pre and post-trading hours.

The Exchange proposes to implement these amendments to its fee schedule on January 1, 2012.

Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁵ in general, and furthers the objectives of Section 6(b)(4),⁶ 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.

The Exchange proposes to amend its schedule to add footnote b to specify that trading activity on days when the market closes early does not count toward volume tiers (footnotes 1, 6, and 11). Since the Exchange is only open until 1PM Eastern Time (“ET”) on these days (e.g., the day after Thanksgiving),⁷ the Exchange believes that counting volume on these days towards the tiers would not be illustrative of typical market activity or liquidity provision, since the trading day is shortened. Therefore, the Exchange proposes to exclude such shortened trading days from any volume tier calculations, as presently found in footnotes numbers 1, 6, and 11. The Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

⁷ In 2012, these days include July 3, 2012, November 23, 2012, and December 24, 2012.

to all Members and would more accurately represent their trading volume. In addition, the proposed amendment is in accordance with the practices employed by other Exchanges.⁸

The reduction in rebate of the Super Tier from \$0.0030 per share to \$0.0028 per share is an equitable allocation of reasonable dues, fees, and other charges as the additional revenue that results from the lower rebate enables the Exchange to cover increased infrastructure and administrative expenses. In addition, when the Exchange lowered its removal rate from \$0.0030 per share to \$0.0029 per share (October 2012), a more significant percentage of EDGX members achieved inverted rates, where the rebate paid to Members for adding liquidity was more than the removal rate of \$0.0029 per share. Given this result, and since the Super Tier has less stringent criteria than either the Mega Tier or Ultra Tier, the Exchange is proposing to moderate the rate and decrease the rebate so that the maker/taker spread is no longer inverted for such a large percentage of Members.

The Exchange believes that the reduced rebate for the Super Tier and the alternative criteria to qualify for the Mega Tier rebate of \$0.0032 per share also represents an equitable allocation of reasonable dues, fees, and other charges since higher rebates are directly correlated with more stringent criteria.

The Mega Tier rebates of \$0.0034/\$0.0032 per share have the most stringent criteria associated with them, and are \$0.0003/\$0.0001 greater than the Ultra Tier

⁸ See fee schedules of Nasdaq and NYSE Arca found at: <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>; and https://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_arca_marketplace_fees_12_1_2011.pdf

rebate (\$0.0031 per share) and \$0.0006/\$0.0004 greater than the proposed Super Tier rebate (\$0.0028 per share).

For example, in order for a Member to qualify for the Mega Tier rebate of \$0.0034, the Member would have to add or route at least 4,000,000 shares of average daily volume during pre and post-trading hours and add a minimum of 20,000,000 shares of average daily volume on EDGX in total, including during both market hours and pre and post-trading hours. The criteria for this tier is the most stringent as fewer Members generally trade during pre and post-trading hours because of the limited time parameters associated with these trading sessions. The Exchange believes that this higher rebate awarded to Members would incent liquidity during these trading sessions. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of a higher rebate.

Another way a Member can qualify for the Mega Tier (with a rebate of \$0.0032 per share) would be to post 0.75% of TCV. Based on average TCV for November 2011 (8.0 billion), this would be 60 million shares on EDGX. A second method to qualify for the rebate of \$0.0032 per share would be to post 0.12% of the TCV (9.6 million shares) more than the Member's February 2011 average daily volume added to EDGX.

Assuming the Member's February 2011 ADV is 1 million shares, the Exchange believes that requiring Members to post 10.6 million more shares than a February 2011 baseline average daily volume encourages Members to add increasing amounts of liquidity to EDGX each month. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure

costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of a higher rebate. The increased liquidity also benefits all investors by deepening EDGX's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Volume-based rebates such as the one proposed herein have been widely adopted in the cash equities markets, and are equitable because they are open to all members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes.

In order to qualify for the proposed Mega Tier rebate of \$0.0032 per share, a Member would have to add or route at least 4,000,000 shares of average daily volume prior to 9:30 AM or after 4:00 PM (includes all flags except 6) and add a minimum of .20% of the Total Consolidated Volume ("TCV") on a daily basis measured monthly, including during both market hours and/or pre and post-trading hours. Based on an average TCV for November 2011 (8.0 billion shares), a Member would qualify by adding 16 million shares during both market hours and/or pre and post-trading hours and adding or routing at least 4,000,000 shares of average daily volume during pre and post-trading hours. The Exchange notes that fewer Members generally trade during pre and post-trading hours because of the limited time parameters associated with these trading sessions. Therefore, the amount of shares that the Exchange requires to be added or routed to satisfy this tier is less than for the Ultra Tier⁹, for example, which is

⁹ See discussion in next paragraph regarding Ultra Tier.

based on posting liquidity to EDGX during regular trading hours. The Exchange believes that this higher rebate awarded to Members would incent liquidity during these trading sessions. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of a higher rebate. The Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members.

In order to qualify for the Ultra Tier, which has less stringent criteria than the Mega Tier, the Member would have to post 0.50% of TCV. Based on average TCV for November 2011 (8.0 billion shares), this would be 40 million shares on EDGX.

Finally, the Super Tier has the least stringent criteria of the tiers mentioned above. In order for a Member to qualify for this rebate, the Member would have to post at least 10 million shares on EDGX and would qualify for the amended rebate of \$0.0028 per share. As stated above, these rebates also result, in part, from lower administrative and other costs associated with higher volume. The reduction in rebate would allow the Exchange to recoup additional revenue to recover increased infrastructure and administrative expenses. This rebate also results, in part, from lower administrative and other costs associated with higher volume. The Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members.

The reduction in rebate of the 0.065% TCV Tier from \$0.0030 per share to \$0.0028 per share is an equitable allocation of reasonable dues, fees, and other charges as the additional revenue that results from the lower rebate enables the Exchange to

cover increased infrastructure and administrative expenses. This tier allows Members even greater flexibility with respect to achieving an additional rebate and rewards growth patterns in volume by Members as this rebate's conditions encourage Members to add increasing amounts of liquidity to EDGX each month. Based on an average daily volume in February 2011 (baseline) of 1,000,000 shares, the Member would have to add 6.2 million shares total to qualify for such rebate. This rebate also results, in part, from lower administrative and other costs associated with higher volume. The Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members.

The Exchange also notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act¹⁰ and Rule 19b-4(f)(2)¹¹ 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. Please include File No. SR-EDGX-2011-39 on the subject line.

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-EDGX-2011-39. 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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 19b-4(f)(2).

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-EDGX-2011-39 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 Trading and Markets, pursuant to delegated authority.¹²

Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Additions underlined

Deletions [bracketed]

EDGX Exchange Fee Schedule – Effective [November] January 1, 2012[1]

The schedule can be downloaded in both excel and pdf formats.

Rebates & Charges for Adding, Removing or Routing Liquidity per Share for Tape A, B, & C Securities^{1,a,b}:

Rebates indicated by parentheses ()

Category	Adding Liquidity	Removing Liquidity	Routing Liquidity
Securities at or above \$1.00	\$(0.0023) ^{1,a}	\$0.0029 ^{1,12}	\$0.0029
Securities below \$1.00	\$(0.00003)	0.10% of Dollar Value	0.30% of Dollar Value ^{3,a}

Liquidity Flags and Associated Fees:

Unless otherwise noted, the following rebates and fees apply to orders in securities priced \$1 and over.

Flag	Description	Fee/(Rebate)
A	Routed to Nasdaq, adds liquidity	(0.0020)
B ^{1,a,12}	Add liquidity to EDGX book (Tape B)	(0.0023)
C ^{3,a}	Routed to Nasdaq BX, removes liquidity	(0.0005)
D ^{3,a}	Routed or re-routed to NYSE, removes liquidity	0.0023
E ¹¹	Customer internalization, per side	0.00035
F	Routed to NYSE, adds liquidity	(0.0015)
G	Routed to ARCA (Tapes A & C), removes liquidity	0.0030
H ^{1,12}	Non-Displayed Orders that add liquidity (not including Midpoint Match orders)	(0.0015)

I	Routed to EDGA	0.0029
J^{3,a}	Routed to Nasdaq, removes liquidity	0.0030
K	Routed to BATS BZX Exchange using ROBA routing strategy (EDGX + BATS) OR Routed to Nasdaq PSX using ROUC routing strategy	0.0025
L³	Routed to Nasdaq using INET routing strategy, removes liquidity (Tapes A & C)	0.0030
M^{6,a}	Add liquidity on LavaFlow	(0.0024)
N^{1,12}	Remove liquidity from EDGX book (Tapes B & C)	0.0029
O^{5,a}	Routed to primary exchange's opening cross	0.0005
Q	Routed using ROUQ or ROUC routing strategies	0.0020
R	Re-routed by exchange	0.0030
S	Directed ISO order	0.0032
T	Routed using ROUD/ROUE routing strategy	0.0012
U^{6,a}	Remove liquidity from LavaFlow	0.0029
V^{1,a,12}	Add liquidity to EDGX book (Tape A)	(0.0023)
W^{1,12}	Remove liquidity from EDGX book (Tape A)	0.0029
X	Routed	0.0029
Y^{1,a,12}	Add liquidity to EDGX book (Tape C)	(0.0023)
Z	Routed using ROUZ routing strategy	0.0010
2³	Routed to Nasdaq using INET routing strategy, removes liquidity (Tape B)	0.0030
3^{1,a,12}	Add liquidity – pre & post market (Tapes A & C)	(0.0023)
4^{1,a,12}	Add liquidity – pre & post market (Tape B)	(0.0023)
5¹¹	Customer Internalization – pre & post market, per side	0.00035
6^{1,12}	Remove liquidity – pre & post market (All Tapes)	0.0029
7	Routed – pre & post market	0.0030
8	Routed to NYSE Amex using the ROOC routing strategy, adds liquidity	(0.0015)
9	Routed to NYSE Arca using the ROOC routing strategy, adds liquidity	(0.0021)
AA	Midpoint Match Cross (same MPID)	FREE
BY¹⁰	Routed to BATS BYX Exchange, removes liquidity (using routing strategies ROUC, ROBY)	(0.0002)

CL⁹	Routed to listing market closing process using ROOC routing strategy, except for NYSE Arca	0.0010
MM^{1,12}	Add liquidity to Midpoint Match (using Midpoint Match order type)	0.0012
MT	Remove liquidity from Midpoint Match (using Midpoint Match order type)	0.0012
OO	Direct Edge Opening	0.0010
PI¹²	Remove liquidity from EDGX book against Midpoint Match	0.0029
RR	Routed to EDGA using routing strategies IOCX or IOCT, removes liquidity	0.0007
SW⁸	Routed using SWPA/SWPB/SWPC routing strategies (except for removal of liquidity from NYSE)	0.0031

¹ Members can qualify for the Mega Tier and be provided a rebate of \$0.0034 per share for all liquidity posted on EDGX if they add or route at least 4,000,000 shares of average daily volume prior to 9:30 AM or after 4:00 PM (includes all flags except 6) AND add a minimum of 20,000,000 shares of average daily volume on EDGX in total, including during both market hours and pre and post-trading hours. Alternatively, Members can also qualify for the Mega Tier, but will be provided a rebate of \$0.0032 per share for all liquidity posted on EDGX if they add or route at least 4,000,000 shares of average daily volume prior to 9:30 AM or after 4:00 PM (includes all flags except 6) and add a minimum of .20% of the Total Consolidated Volume (“TCV”) on a daily basis measured monthly, including during both market hours and pre and post-trading hours. In addition, for meeting the aforementioned criteria, Members will pay a reduced rate for removing liquidity of \$0.0029 for Flags N, W, and 6.

Members can also qualify for the Mega Tier and be provided a \$0.0032 rebate per share for liquidity added on EDGX in either of two ways: (i) if the Member on a daily basis, measured monthly, posts 0.75% of the [Total Consolidated Volume][(“]TCV[”)] in average daily volume; or (ii) if the Member on a daily basis, measured monthly, posts 0.12% of the TCV in average daily volume more than their February 2011 average daily volume added to EDGX. TCV is defined as volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities for the month prior to the month in which the fees are calculated.

Members can qualify for the Ultra Tier and be provided a \$0.0031 rebate per share for liquidity added on EDGX if the Member on a daily basis, measured monthly, posts 0.50% of TCV in average daily volume to EDGX.

Members can qualify for the Super Tier and be provided a \$0.00[30]28 rebate per share for liquidity added on EDGX if the Member on a daily basis, measured monthly, posts 10,000,000 shares or more of average daily volume to EDGX.

Members that post 0.065% of the TCV in average daily volume more than their February 2011 average daily volume added to EDGX will qualify for a \$0.002[9]8 per share rebate (unless they otherwise qualify for a higher rebate).

Any Member meeting the following criteria: (i) adding 10,000,000 shares or more of average daily volume of liquidity to EDGX, (ii) where such added liquidity on EDGX is at least 5,000,000 shares of average daily volume greater than the previous calendar month; and (iii) but for the liquidity added on EDGX, such Member would have qualified for a better rebate with respect to liquidity added on another exchange or ECN that the Member previously qualified for in the three calendar months prior to meeting the above-described criteria in (i) and (ii), shall be reimbursed the difference between the rebate received and the rebate potentially received, so long as source documentation evidencing the above is provided to the Exchange within fifteen (15) calendar days from the end of the relevant month. A Member can only receive reimbursement with respect to two consecutive calendar months. With respect to the second calendar month's reimbursement, the relevant period in determining whether criteria (iii) is satisfied is the period three calendar months prior to the first of the two consecutive calendar months the Member meets the above-described criteria in (i) and (ii).

² Intentionally omitted.

³ Stocks priced below \$1.00 on the NYSE are charged \$0.0023 per share when removing liquidity. Stocks priced below \$1.00 are charged 0.10% of the dollar value of the transaction when routed to Nasdaq BX and removing liquidity in Tapes A, B, & C securities. Stocks priced below \$1.00 are charged 0.30% of the dollar value of the transaction when routed to Nasdaq and removing liquidity in securities on all Tapes.

⁴ Intentionally omitted.

⁵ Capped at \$10,000 per month per Member.

⁶ If Member posts an average of 100,000 shares or more per day using strategy ROLF (yielding Flag M), then said Member's fee when removing liquidity from LavaFlow decreases to \$0.0023 per share (yielding Flag U).

⁷ Intentionally omitted.

⁸ Flag D is assigned and a fee of \$0.0023 per share is assessed if either an SWPA, SWPB, or SWPC routing strategy removes liquidity from NYSE.

⁹ A Flag "O" will be yielded and a fee of \$0.0005 per share will be assessed if an order is routed to NYSE Arca's closing process.

¹⁰ Stocks priced below \$1.00 are charged \$0.0010 per share.

¹¹ If a Member posts 10,000,000 shares or more of ADV to EDGX, then the Member's rate for customer internalization decreases to \$0.0001 per share per side.

¹² A removal rate of \$0.0029 per share applies where an MPID's add liquidity ratio is equal to or greater than 10%. The add liquidity ratio is defined as "added" flags/("added" flags + "removal" flags) x 100, where added flags include B, H, V, Y, MM, 3, or 4 and removal flags include MT, N, W, PI, or 6. The removal rate of \$0.0029 per share applies to single MPIDs only as share volume calculations for wholly owned affiliates cannot be aggregated across multiple MPIDs on a prospective basis. Where a Member does not meet the add liquidity ratio of at least 10%, then a removal rate of \$0.0030 per share applies.

^a Upon a Member's request, EDGX will aggregate share volume calculations for wholly owned affiliates on a prospective basis.

^b Trading activity on days when the market closes early does not count toward volume tiers.

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