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Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2012 - * 39
Amendment No. (req. for Amendments *)

Proposed Rule Change by EDGX Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☑	☐	☐	☐	☑	☐

Rule

Pilot	Extension of Time Period for Commission Action *	Date Expires *	19b-4(f)(1)	19b-4(f)(2)	19b-4(f)(3)	19b-4(f)(4)	19b-4(f)(5)	19b-4(f)(6)
☐	☐		☐	☑	☐	☐	☐	☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *).

EDGX Exchange, Inc. proposes to amend its fees and rebates applicable to Members of the Exchange pursuant to EDGX Rule 15.1(a) and (c).

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 * Jeffrey Last Name * Rosenstrock
Title * General Counsel
E-mail * jrosenstrock@directedge.com
Telephone * (201) 942-8295 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 08/30/2012

By Jeffrey S. Rosenstrock
(Name *)

General Counsel
(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.

jrosenstrock@directedge.com

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)

Add Remove View

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)

Add Remove View

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

Add Remove View

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

Add Remove View

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

Add Remove View

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

Add Remove View

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

Add Remove View

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 Members[1] 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
201-418-3471

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 append Footnote 1 to Flag PI, where Flag PI removes liquidity from the EDGX book against the Midpoint Match. This charge would signal a rate change for Flag PI if the conditions for achieving the Mega Tier[2] are not satisfied. The Exchange also proposes to amend the text of Footnote 1 to add Flags BB and PI to the list of removal flags and to add text to specify that Members that do not meet the thresholds for the Mega Tier in the first paragraph of Footnote 1 will be charged the standard removal rate of $0.0030 per share.

The Exchange proposes to assess a fee of $0.0006 per share in lieu of the current rebate of $0.0003 per share for Members who utilize Flag RA to route orders to EDGA Exchange, Inc. ("EDGA") and add liquidity. The Exchange also proposes to offer a rebate of $0.0004 per share in lieu of the current charge of $0.0007 per share for Members who utilize Flag RR to route

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1 As defined in Exchange Rule 1.5(n).

2 The Mega Tier conditions are discussed below in this filing.

orders to EDGA using routing strategies IOCX or IOCT on EDGX and remove liquidity from EDGA. These proposed changes represent pass-throughs of the Exchange's rates for routing orders to EDGA via its affiliated routing broker-dealer, Direct Edge ECN LLC d/b/a DE Route ("DE Route"), and these proposed changes are in response to pricing changes in EDGA's filing with the Securities and Exchange Commission (the "SEC").[3]

The Exchange proposes to delete Flag RM from the fee schedule. Accordingly, Members that route to the Chicago Stock Exchange (the "CHX") will be assessed the default charge for routing liquidity of $0.0029 per share, as represented by Flag X.

The Exchange proposes to increase the rebate and to modify the thresholds associated with the Mega Tier in Footnote 1. The Exchange proposes to offer Members a rebate of $0.0035 per share for all liquidity posted on EDGX where Members add or route at least 2 million shares of average daily volume ("ADV") prior to 9:30 AM or after 4:00 PM (includes all flags except 6) and add a minimum of 35 million shares of ADV on EDGX in total, including during both market hours and pre and post-trading hours. Members will continue to also qualify for the Mega Tier but will earn a rebate of $0.0032 per share for all liquidity posted on EDGX if they add or route at least 4 million shares of ADV 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.

The Exchange proposes to discontinue the Tape B tiers described in Footnote 1 on the Exchange's fee schedule. Accordingly, the Exchange proposes to delete the following language from its fee schedule: "Members can qualify for the Mega Tape B Tier and be provided a $0.0034 rebate per share for liquidity added on EDGX in Tape B securities if the Member on a daily basis, measured monthly: (i) posts greater than or equal to .10% of the TCV in ADV more than their January 2012 ADV added to EDGX; and (ii) posts greater than or equal to .10% of the TCV in ADV in Tape B securities more than their January 2012 ADV added to EDGX." In addition, the Exchange also proposes to delete the following language from its fee schedule: "Members can qualify for the Mini Tape B Tier and be provided a $0.0030 rebate per share for liquidity added on EDGX in Tape B securities if the Member on a daily basis, measured monthly: (i) posts greater than or equal to .05% of the TCV in ADV more than their January 2012 ADV added to EDGX; and (ii) posts greater than or equal to .05% of the TCV in ADV in Tape B securities more than their January 2012 ADV added to EDGX." As a result of the discontinuation of the Tape B tiers in Footnote 1, Tape B securities do not have a specific tier and are subject to the remaining EDGX tier structure, as applicable.

The Exchange proposes to codify on the top of its fee schedule the premise that it uses footnotes to provide further explanatory text or, where annotated to flags, to indicate variable rate changes, provided the conditions in the footnote are met. In connection with this premise, the Exchange proposes to delete Footnote 12 that is appended to Flags B, V, Y, 3, 4, HA and

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[3] See SR-EDGA-2012-39 (August 30, 2012).

MM because the rates for Flags B, V, Y, 3, 4, HA and MM[4] do not change where a Market Participant Identifier ("MPID") achieves an add liquidity ratio equal to or greater than 10%. The Exchange will continue to append Footnote 12 to Flags N, W, 6, BB and PI, which denotes that the Exchange will charge a removal rate of $0.0029 per share where an MPID achieves an add liquidity ratio equal to or greater than 10%. Finally, the Exchange proposes to delete Footnote 6 that is appended to Flag M to also signify that a rate change is not signaled.[5] These amendments support the Exchange's efforts to annotate flags with footnotes to signify a potential rate change, rather than annotating every flag to denote which flags contribute towards the volume threshold and/or conditions necessary to achieve a potential rate change.

The Exchange proposes to delete Footnote 1 that is appended to Flags HA and MM in order to specify that these non-displayed order types would not be eligible for the increased rebates for displayed orders in the tiers in Footnote 1 of the Exchange's fee schedule. Rather, Flag HA is rebated $0.0015 per share and Flag MM is charged $0.0012 per share, regardless of whether the tiers in Footnote 1 are met.[6]

The Exchange also proposes to amend the text of Footnote 12 to include Flag PR, where Flag PR removes liquidity from the EDGX book using the ROUQ routing strategy, as part of the "removal flags."[7] These removal flags are used to calculate whether an MPID satisfied the "add liquidity" ratio calculation[8] to qualify for a removal rate of $0.0029 per share instead of $0.0030 per share.

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

(b) Basis

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4 The Exchange notes that the volume from these flags will count towards achieving the add liquidity ratio in Footnote 12 of the Exchange's fee schedule.

5 The Exchange notes that the volume from Flag M counts toward the tier in Footnote 6, which changes the rate charged on Flag U.

6 However, the Exchange notes that the volume from these flags will count towards the volume required to earn the rebates associated with the tiered pricing in Footnote 1; the rates for Flags HA and MM do not change.

7 See Securities Exchange Act Release No. 67379 (July 10, 2012), 77 FR 41864 (July 16, 2012) (SR-EDGX-2012-26) (introducing Flag PR to the Exchange's fee schedule for orders that remove liquidity from the EDGX book using the ROUQ routing strategy).

8 The "add liquidity" ratio is the ratio of the "added" flags/ ("added" flags + "removal" flags) x 100. If the resulting ratio is equal to or greater than 10%, the MPID qualifies for the lower rate.

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Securities and Exchange Act of 1934 (the "Act"),[9] in general, and furthers the objectives of Section 6(b)(4),[10] 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 believes that its proposal to append Footnote 1 to Flag PI, to make changes to the text of Footnote 1 to add Flags BB and PI to the list of removal flags, and to specify the default rate of $0.0030 per share (if the Mega tier's conditions are not met) will incentivize Members to add liquidity to the Exchange. In turn, by posting liquidity, Members using these flags will achieve the discounted removal charge of $0.0029 per share for meeting the tier's conditions rather than the default charge of $0.0030 per share. Such amendment represents an equitable allocation of reasonable dues, fees, and other charges because the resulting 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. In addition, by providing the ability to obtain the lower removal charge, which is a more favorable rate, the Exchange is encouraging posting of liquidity, which benefits the market as a whole by contributing to increased price discovery and market depth. These lower per share costs in turn would allow the Exchange to pass on the savings to Members in the form of lower fees (for example, $0.0029 per share for Flags BB and PI instead of $0.0030 per share). The increased liquidity 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. Discounts based on volume 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 addition, the Exchange also believes that these proposed amendments are non-discriminatory because they apply uniformly to all Members.

The rates and rebates associated with routing orders to EDGA through DE Route on the Exchange's fee schedule are pass-through rates from DE Route to the Exchange and represent an equitable allocation of reasonable dues, fees, and other charges among Members of the Exchange and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to EDGA through DE Route. The Exchange notes that routing through DE Route is voluntary and DE Route is treated like any other Member of EDGA. Currently, for orders yielding Flag RA, EDGA rebates DE Route $0.0003 per share, which, in turn, is passed through to the Exchange. The Exchange, in turn, rebates its Members $0.0003 per share as a pass-through. In EDGA's September 1, 2012 fee filing, SR-EDGA-2012-

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9 15 U.S.C. 78f.

10 15 U.S.C. 78f(b)(4).

39, EDGA proposed to amend the rate it charges its Members, such as DE Route, for orders that are routed to EDGA and add liquidity to $0.0006 per share. Therefore, the Exchange believes that the proposed change for Flag RA from a rebate of $0.0003 per share to a charge of $0.0006 per share is equitable and reasonable because it accounts for the pricing changes on EDGA. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for routing orders to EDGA via DE Route that add liquidity. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

Similarly, for orders yielding Flag RR, EDGA currently charges its Members, such as DE Route, $0.0007 per share, which, in turn it passes through to the Exchange. The Exchange, in turn, charges its Members $0.0007 per share as a pass-through. In EDGA's September 1, 2012 fee filing, SR-EDGA-2012-39, EDGA proposed to amend the rate it charges its Members for orders that are routed to EDGA using routing strategies IOCX or IOCT on EDGX and remove liquidity from EDGA to a rebate of $0.0004 per share. Therefore, the Exchange believes that the proposed change for Flag RR from a charge of $0.0007 per share to a rebate of $0.0004 per share is equitable and reasonable because it accounts for the pricing changes on EDGA. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for routing orders to EDGA using routing strategies IOCX or IOCT on EDGX and that remove liquidity from EDGA. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

Exchange Rule 11.9(b)(3) defines the "System routing table" as the proprietary process for determining the specific trading venues to which the System[11] routes orders and the order in which the System routes to them. Specifically, the Exchange reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. The Exchange proposes to delete the CHX as a posting destination on the System routing table. The Exchange previously charged no fee nor assessed a rebate to its Members when DE Route routed to the CHX. This was a pass through by the Exchange of the no rebate/fee provided to DE Route by CHX when liquidity was added to CHX. Since CHX is no longer on the System routing table, the Exchange proposes to delete Flag RM from the Exchange's fee schedule. The Exchange notes that it will continue to comply with its obligations under Regulation NMS; however, it will not continue to offer Flag RM as a routing strategy to post liquidity to the CHX. Rather, the Exchange will now pass back Flag X ($0.0029 charge per share) as the standard default routing flag should an order be routed to CHX as a result of the Exchange's Regulation NMS obligations. The Exchange believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange believes that its proposal to increase the rebate and modify the thresholds associated with the Mega Tier in Footnote 1, where the Exchange proposes to increase the rebate to $0.0035 per share for all liquidity posted on EDGX and to modify the volume thresholds for Members that add or route at least 2 million shares of ADV during pre and post-trading hours and add a minimum of 35 million shares of ADV on EDGX in total, represents an equitable allocation of reasonable dues, fees, and other charges because it incentivizes Members to add

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11 See Exchange Rule 1.5(cc).

liquidity to the EDGX book. Furthermore, 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 in turn would allow the Exchange to pass on the savings to Members in the form of higher rebates and lower fees. The increased liquidity 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 addition, the Exchange also believes that these proposed amendments are non-discriminatory because they apply uniformly to all Members.

The Exchange also believes that the rebate of $0.0035 per share and volume thresholds that require Members to add or route at least 2 million shares of ADV during pre and post-trading hours and to add a minimum of 35 million shares of ADV on EDGX in total also represent an equitable allocation of reasonable dues, fees, and other charges since higher rebates are directly correlated with more stringent criteria.

As proposed, the Mega Tier rebate of $0.0035 per share will continue to have the most stringent criteria associated with it, and Members will receive $0.0002 more per share than the next best tiered rebate, the Market Depth Tier ($0.0033 per share).

For example, in order for a Member to qualify for the Mega Tier rebate of $0.0035 per share, the Member would have to add or route at least 2 million shares of ADV during pre and post-trading hours and add a minimum of 35 million shares of ADV 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, which generally results in less liquidity. In addition, the Exchange assigns a higher value to this resting liquidity because liquidity received prior to the regular trading session typically remains resident on the Exchange throughout the remainder of the entire trading day. Furthermore, liquidity received during pre and post-trading hours is an important contributor to price discovery and acts as an important indication of price for the market as a whole considering the relative illiquidity of the pre and post-trading hour sessions. The Exchange believes that offering a higher rebate incentivizes Members to provide liquidity during these trading sessions.

In order to qualify for the next best tier after the Mega Tier (at $0.0035), the Market Depth Tier, a Member would receive a rebate of $0.0033 per share for displayed liquidity added on EDGX if they post greater than or equal to 0.50% of the TCV in ADV on EDGX, at least 2 million shares of which are Non-Displayed Orders that yield Flag HA on EDGX in total. Assuming a TCV of 8 billion shares for July 2012, this would amount to 40 million shares, at least 2 million shares of which are Non-Displayed Orders. The criteria for this tier is less stringent then the proposed volume thresholds for the Mega Tier because Members must add a minimum of 35 million shares of ADV in addition to adding or routing at least 2 million shares of ADV during pre and post-trading hours to earn a rebate of $0.0035 per share. As discussed, the criteria for the Mega 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, which generally results in less liquidity.

The Exchange believes that its proposal to discontinue the Tape B tiers described in Footnote 1 on the Exchange's fee schedule represents an equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities because the Exchange notes that the Tape B tiered pricing has not incentivized Members to add liquidity to the EDGX book since its inception in March 2012.[12] Because the Tape B tiers have not satisfied the justifications behind their creation, such as 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 increasing volume, the Exchange proposes to discontinue the Tape B tiers and delete the corresponding text from its fee schedule. The Exchange notes that Members will be subject to the current tiered pricing structure on EDGX as a result, which is reasonable and equitable because more favorable rates are associated with more stringent criteria that are designed to incent increased volume. In addition, the Exchange also believes that these proposed amendments are non-discriminatory because they apply uniformly to all Members.

The Exchange's proposal to add language to the top of its fee schedule to state that it uses footnotes to provide further explanatory text, or where annotated to flags, to indicate variable rate changes, provided the conditions in the footnote are met, provides additional transparency to Members when reading the fee schedule. This is in line with the Exchange's proposal to delete Footnote 12 that is appended to Flags B, V, Y, 3, 4, HA and MM because a rate change is not signified; thus, the rates for Flags B, V, Y, 3, 4, HA and MM do not change where an MPID achieves an add liquidity ratio equal to or greater than 10%. Similarly, the Exchange's proposal to delete footnote 6 that is appended to Flag M also signifies that a rate change is not signaled on Flag M. The Exchange believes these amendments support the Exchange's efforts to achieve consistent application among the flags on the fee schedule. In addition, these amendments support the Exchange's efforts to annotate flags with footnotes to signify a potential rate change, rather than annotating every flag to denote which flags contribute towards the volume threshold and/or conditions necessary to achieve a potential rate change. The Exchange also believes that these proposed amendments are non-discriminatory because they apply to all Members.

The Exchange's deletion of Footnote 1 that is appended to Flags HA and MM in order to specify that these non-displayed order types would not be eligible for the increased rebates for displayed orders in the tiers in Footnote 1 of the fee schedule is reasonable and equitable since non-displayed liquidity is not often eligible for the same rebates that displayed liquidity qualifies for because the Exchange places a higher value on displayed liquidity because displayed liquidity is a public good that benefits investors and traders generally by providing greater price

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12 See Securities Exchange Act Release No. 66558 (March 9, 2012), 77 FR 15432 (March 15, 2012) (SR-EDGX-2012-06).

transparency and enhancing public price discovery, which ultimately lead to substantial reductions in transaction costs.[13] The proposed change is non-discriminatory because it applies uniformly to all Members.

The Exchange also proposes to amend the text of Footnote 12 to include Flag PR, where Flag PR removes liquidity from EDGX book using the ROUQ routing strategy, as part of the "removal flags."[14] The Exchange notes that the liquidity ratio is intended to capture the PR removal flag as one of several removal flags in the calculation of the "add liquidity" ratio. The Exchange believes this amendment supports the Exchange's efforts to achieve consistent application and specificity among the flags on the fee schedule and provide transparency for its Members. In SR-EDGX-2011-31, the Exchange included "removal flags" in its calculation of the "add liquidity" ratio.[15] Since Flag PR is a removal flag, the Exchange believes it is appropriate to include the removal volume from Flag PR in its calculation of the "add liquidity" ratio. The Exchange also believes that these proposed amendments are non-discriminatory because they apply 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. <u>Self-Regulatory Organization's Statement on Burden on Competition</u>

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

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13 <u>See</u> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37516 (June 29, 2005); <u>see</u> <u>also</u> Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577, 10584 n. 53 (February 28, 2000) (SR-NYSE-99-48) (citing academic studies finding that the required display of customer limit orders, by providing greater price transparency and enhancing public price discovery, led to substantial reductions in transaction costs for both retail and institutional investors).

14 <u>See</u> Securities Exchange Act Release No. 65541 (October 12, 2011), 76 FR 64409 (October 18, 2011) (SR-EDGX-2011-31).

15 <u>Id</u>.

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 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 Section 19(b)(3)(A)(ii) of the Act[16] and paragraph (f)(2) of Rule 19b-4 thereunder.[17]

(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.

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b-4(f)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-EDGX-2012-39)

[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 August 31, 2012 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

The Exchange proposes to amend its fees and rebates applicable to Members[3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet website at http://www.directedge.com, at the Exchange's principal office, and at the Public Reference Room of the Commission.

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 As defined in Exchange Rule 1.5(n).

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

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

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

Purpose

The Exchange proposes to append Footnote 1 to Flag PI, where Flag PI removes liquidity from the EDGX book against the Midpoint Match. This charge would signal a rate change for Flag PI if the conditions for achieving the Mega Tier[4] are not satisfied. The Exchange also proposes to amend the text of Footnote 1 to add Flags BB and PI to the list of removal flags and to add text to specify that Members that do not meet the thresholds for the Mega Tier in the first paragraph of Footnote 1 will be charged the standard removal rate of $0.0030 per share.

The Exchange proposes to assess a fee of $0.0006 per share in lieu of the current rebate of $0.0003 per share for Members who utilize Flag RA to route orders to EDGA Exchange, Inc. ("EDGA") and add liquidity. The Exchange also proposes to offer a rebate of $0.0004 per share in lieu of the current charge of $0.0007 per share for Members who utilize Flag RR to route orders to EDGA using routing strategies IOCX or IOCT on EDGX and remove liquidity from EDGA. These proposed changes

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[4] The Mega Tier conditions are discussed below in this filing.

represent pass-throughs of the Exchange's rates for routing orders to EDGA via its affiliated routing broker-dealer, Direct Edge ECN LLC d/b/a DE Route ("DE Route"), and these proposed changes are in response to pricing changes in EDGA's filing with the Securities and Exchange Commission (the "SEC").[5]

The Exchange proposes to delete Flag RM from the fee schedule. Accordingly, Members that route to the Chicago Stock Exchange (the "CHX") will be assessed the default charge for routing liquidity of $0.0029 per share, as represented by Flag X.

The Exchange proposes to increase the rebate and to modify the thresholds associated with the Mega Tier in Footnote 1. The Exchange proposes to offer Members a rebate of $0.0035 per share for all liquidity posted on EDGX where Members add or route at least 2 million shares of average daily volume ("ADV") prior to 9:30 AM or after 4:00 PM (includes all flags except 6) and add a minimum of 35 million shares of ADV on EDGX in total, including during both market hours and pre and post-trading hours. Members will continue to also qualify for the Mega Tier but will earn a rebate of $0.0032 per share for all liquidity posted on EDGX if they add or route at least 4 million shares of ADV 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.

The Exchange proposes to discontinue the Tape B tiers described in Footnote 1 on the Exchange's fee schedule. Accordingly, the Exchange proposes to delete the following language from its fee schedule: "Members can qualify for the Mega Tape B Tier and be provided a $0.0034 rebate per share for liquidity added on EDGX in Tape

5 See SR-EDGA-2012-39 (August 30, 2012).

B securities if the Member on a daily basis, measured monthly: (i) posts greater than or equal to .10% of the TCV in ADV more than their January 2012 ADV added to EDGX; and (ii) posts greater than or equal to .10% of the TCV in ADV in Tape B securities more than their January 2012 ADV added to EDGX." In addition, the Exchange also proposes to delete the following language from its fee schedule: "Members can qualify for the Mini Tape B Tier and be provided a $0.0030 rebate per share for liquidity added on EDGX in Tape B securities if the Member on a daily basis, measured monthly: (i) posts greater than or equal to .05% of the TCV in ADV more than their January 2012 ADV added to EDGX; and (ii) posts greater than or equal to .05% of the TCV in ADV in Tape B securities more than their January 2012 ADV added to EDGX." As a result of the discontinuation of the Tape B tiers in Footnote 1, Tape B securities do not have a specific tier and are subject to the remaining EDGX tier structure, as applicable.

The Exchange proposes to codify on the top of its fee schedule the premise that it uses footnotes to provide further explanatory text or, where annotated to flags, to indicate variable rate changes, provided the conditions in the footnote are met. In connection with this premise, the Exchange proposes to delete Footnote 12 that is appended to Flags B, V, Y, 3, 4, HA and MM because the rates for Flags B, V, Y, 3, 4, HA and MM[6] do not change where a Market Participant Identifier ("MPID") achieves an add liquidity ratio equal to or greater than 10%. The Exchange will continue to append Footnote 12 to Flags N, W, 6, BB and PI, which denotes that the Exchange will charge a removal rate of $0.0029 per share where an MPID achieves an add liquidity ratio equal to or greater than 10%. Finally, the Exchange proposes to delete Footnote 6

[6] The Exchange notes that the volume from these flags will count towards achieving the add liquidity ratio in Footnote 12 of the Exchange's fee schedule.

that is appended to Flag M to also signify that a rate change is not signaled.[7] These amendments support the Exchange's efforts to annotate flags with footnotes to signify a potential rate change, rather than annotating every flag to denote which flags contribute towards the volume threshold and/or conditions necessary to achieve a potential rate change.

The Exchange proposes to delete Footnote 1 that is appended to Flags HA and MM in order to specify that these non-displayed order types would not be eligible for the increased rebates for displayed orders in the tiers in Footnote 1 of the Exchange's fee schedule. Rather, Flag HA is rebated $0.0015 per share and Flag MM is charged $0.0012 per share, regardless of whether the tiers in Footnote 1 are met.[8]

The Exchange also proposes to amend the text of Footnote 12 to include Flag PR, where Flag PR removes liquidity from the EDGX book using the ROUQ routing strategy, as part of the "removal flags."[9] These removal flags are used to calculate whether an MPID satisfied the "add liquidity" ratio calculation[10] to qualify for a removal rate of $0.0029 per share instead of $0.0030 per share.

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7 The Exchange notes that the volume from Flag M counts toward the tier in Footnote 6, which changes the rate charged on Flag U.

8 However, the Exchange notes that the volume from these flags will count towards the volume required to earn the rebates associated with the tiered pricing in Footnote 1; the rates for Flags HA and MM do not change.

9 <u>See</u> Securities Exchange Act Release No. 67379 (July 10, 2012), 77 FR 41864 (July 16, 2012) (SR-EDGX-2012-26) (introducing Flag PR to the Exchange's fee schedule for orders that remove liquidity from the EDGX book using the ROUQ routing strategy).

10 The "add liquidity" ratio is the ratio of the "added" flags/ ("added" flags + "removal" flags) x 100. If the resulting ratio is equal to or greater than 10%, the MPID qualifies for the lower rate.

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

Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[11] in general, and furthers the objectives of Section 6(b)(4),[12] 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 believes that its proposal to append Footnote 1 to Flag PI, to make changes to the text of Footnote 1 to add Flags BB and PI to the list of removal flags, and to specify the default rate of $0.0030 per share (if the Mega tier's conditions are not met) will incentivize Members to add liquidity to the Exchange. In turn, by posting liquidity, Members using these flags will achieve the discounted removal charge of $0.0029 per share for meeting the tier's conditions rather than the default charge of $0.0030 per share. Such amendment represents an equitable allocation of reasonable dues, fees, and other charges because the resulting 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. In addition, by providing the ability to obtain the lower removal charge, which is a more favorable rate, the Exchange is encouraging posting of liquidity, which benefits the market as a whole by contributing to increased price discovery and market depth. These lower per share costs in turn would allow the

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11 15 U.S.C. 78f.

12 15 U.S.C. 78f(b)(4).

Exchange to pass on the savings to Members in the form of lower fees (for example, $0.0029 per share for Flags BB and PI instead of $0.0030 per share). The increased liquidity 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. Discounts based on volume 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 addition, the Exchange also believes that these proposed amendments are non-discriminatory because they apply uniformly to all Members.

The rates and rebates associated with routing orders to EDGA through DE Route on the Exchange's fee schedule are pass-through rates from DE Route to the Exchange and represent an equitable allocation of reasonable dues, fees, and other charges among Members of the Exchange and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to EDGA through DE Route. The Exchange notes that routing through DE Route is voluntary and DE Route is treated like any other Member of EDGA. Currently, for orders yielding Flag RA, EDGA rebates DE Route $0.0003 per share, which, in turn, is passed through to the Exchange. The Exchange, in turn, rebates its Members $0.0003 per share as a pass-through. In EDGA's September 1, 2012 fee filing, SR-EDGA-2012-39, EDGA proposed to amend the rate it charges its Members, such as DE Route, for orders that are routed to EDGA and add liquidity to $0.0006 per share. Therefore, the Exchange believes that the proposed change for Flag RA from a rebate of $0.0003 per share to a charge of $0.0006 per share is equitable and reasonable because it accounts for the pricing changes on EDGA. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for routing orders to EDGA via DE Route that add liquidity. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

Similarly, for orders yielding Flag RR, EDGA currently charges its Members, such as DE Route, $0.0007 per share, which, in turn it passes through to the Exchange. The Exchange, in turn, charges its Members $0.0007 per share as a pass-through. In EDGA's September 1, 2012 fee filing, SR-EDGA-2012-39, EDGA proposed to amend the rate it charges its Members for orders that are routed to EDGA using routing strategies IOCX or IOCT on EDGX and remove liquidity from EDGA to a rebate of $0.0004 per share. Therefore, the Exchange believes that the proposed change for Flag RR from a charge of $0.0007 per share to a rebate of $0.0004 per share is equitable and reasonable because it accounts for the pricing changes on EDGA. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for routing orders to EDGA using routing strategies IOCX or IOCT on EDGX and that remove liquidity from EDGA. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

Exchange Rule 11.9(b)(3) defines the "System routing table" as the proprietary process for determining the specific trading venues to which the System[13] routes orders

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[13] See Exchange Rule 1.5(cc).

and the order in which the System routes to them. Specifically, the Exchange reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. The Exchange proposes to delete the CHX as a posting destination on the System routing table. The Exchange previously charged no fee nor assessed a rebate to its Members when DE Route routed to the CHX. This was a pass through by the Exchange of the no rebate/fee provided to DE Route by CHX when liquidity was added to CHX. Since CHX is no longer on the System routing table, the Exchange proposes to delete Flag RM from the Exchange's fee schedule. The Exchange notes that it will continue to comply with its obligations under Regulation NMS; however, it will not continue to offer Flag RM as a routing strategy to post liquidity to the CHX. Rather, the Exchange will now pass back Flag X ($0.0029 charge per share) as the standard default routing flag should an order be routed to CHX as a result of the Exchange's Regulation NMS obligations. The Exchange believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange believes that its proposal to increase the rebate and modify the thresholds associated with the Mega Tier in Footnote 1, where the Exchange proposes to increase the rebate to $0.0035 per share for all liquidity posted on EDGX and to modify the volume thresholds for Members that add or route at least 2 million shares of ADV during pre and post-trading hours and add a minimum of 35 million shares of ADV on EDGX in total, represents an equitable allocation of reasonable dues, fees, and other charges because it incentivizes Members to add liquidity to the EDGX book. Furthermore, 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 in turn would allow the Exchange to pass on the savings to Members in the form of higher rebates and lower fees. The increased liquidity 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 addition, the Exchange also believes that these proposed amendments are non-discriminatory because they apply uniformly to all Members.

The Exchange also believes that the rebate of $0.0035 per share and volume thresholds that require Members to add or route at least 2 million shares of ADV during pre and post-trading hours and to add a minimum of 35 million shares of ADV on EDGX in total also represent an equitable allocation of reasonable dues, fees, and other charges since higher rebates are directly correlated with more stringent criteria.

As proposed, the Mega Tier rebate of $0.0035 per share will continue to have the most stringent criteria associated with it, and Members will receive $0.0002 more per share than the next best tiered rebate, the Market Depth Tier ($0.0033 per share).

For example, in order for a Member to qualify for the Mega Tier rebate of

$0.0035 per share, the Member would have to add or route at least 2 million shares of ADV during pre and post-trading hours and add a minimum of 35 million shares of ADV 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, which generally results in less liquidity. In addition, the Exchange assigns a higher value to this resting liquidity because liquidity received prior to the regular trading session typically remains resident on the Exchange throughout the remainder of the entire trading day. Furthermore, liquidity received during pre and post-trading hours is an important contributor to price discovery and acts as an important indication of price for the market as a whole considering the relative illiquidity of the pre and post-trading hour sessions. The Exchange believes that offering a higher rebate incentivizes Members to provide liquidity during these trading sessions.

In order to qualify for the next best tier after the Mega Tier (at $0.0035), the Market Depth Tier, a Member would receive a rebate of $0.0033 per share for displayed liquidity added on EDGX if they post greater than or equal to 0.50% of the TCV in ADV on EDGX, at least 2 million shares of which are Non-Displayed Orders that yield Flag HA on EDGX in total. Assuming a TCV of 8 billion shares for July 2012, this would amount to 40 million shares, at least 2 million shares of which are Non-Displayed Orders. The criteria for this tier is less stringent then the proposed volume thresholds for the Mega Tier because Members must add a minimum of 35 million shares of ADV in addition to adding or routing at least 2 million shares of ADV during pre and post-trading hours to earn a rebate of $0.0035 per share. As discussed, the criteria for the Mega 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, which generally results in less liquidity.

The Exchange believes that its proposal to discontinue the Tape B tiers described in Footnote 1 on the Exchange's fee schedule represents an equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities because the Exchange notes that the Tape B tiered pricing has not incentivized Members to add liquidity to the EDGX book since its inception in March 2012.[14] Because the Tape B tiers have not satisfied the justifications behind their creation, such as 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 increasing volume, the Exchange proposes to discontinue the Tape B tiers and delete the corresponding text from its fee schedule. The Exchange notes that Members will be subject to the current tiered pricing structure on EDGX as a result, which is reasonable and equitable because more favorable rates are associated with more stringent criteria that are designed to incent increased volume. In addition, the Exchange also believes that these proposed amendments are non-discriminatory because they apply uniformly to all Members.

The Exchange's proposal to add language to the top of its fee schedule to state that it uses footnotes to provide further explanatory text, or where annotated to flags, to indicate variable rate changes, provided the conditions in the footnote are met, provides additional transparency to Members when reading the fee schedule. This is in line with

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14 See Securities Exchange Act Release No. 66558 (March 9, 2012), 77 FR 15432 (March 15, 2012) (SR-EDGX-2012-06).

the Exchange's proposal to delete Footnote 12 that is appended to Flags B, V, Y, 3, 4, HA and MM because a rate change is not signified; thus, the rates for Flags B, V, Y, 3, 4, HA and MM do not change where an MPID achieves an add liquidity ratio equal to or greater than 10%. Similarly, the Exchange's proposal to delete footnote 6 that is appended to Flag M also signifies that a rate change is not signaled on Flag M. The Exchange believes these amendments support the Exchange's efforts to achieve consistent application among the flags on the fee schedule. In addition, these amendments support the Exchange's efforts to annotate flags with footnotes to signify a potential rate change, rather than annotating every flag to denote which flags contribute towards the volume threshold and/or conditions necessary to achieve a potential rate change. The Exchange also believes that these proposed amendments are non-discriminatory because they apply to all Members.

The Exchange's deletion of Footnote 1 that is appended to Flags HA and MM in order to specify that these non-displayed order types would not be eligible for the increased rebates for displayed orders in the tiers in Footnote 1 of the fee schedule is reasonable and equitable since non-displayed liquidity is not often eligible for the same rebates that displayed liquidity qualifies for because the Exchange places a higher value on displayed liquidity because displayed liquidity is a public good that benefits investors and traders generally by providing greater price transparency and enhancing public price discovery, which ultimately lead to substantial reductions in transaction costs.[15] The proposed change is non-discriminatory because it applies uniformly to all Members.

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15 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37516 (June 29, 2005); see also Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577, 10584 n. 53 (February 28, 2000) (SR-

The Exchange also proposes to amend the text of Footnote 12 to include Flag PR, where Flag PR removes liquidity from EDGX book using the ROUQ routing strategy, as part of the "removal flags."[16] The Exchange notes that the liquidity ratio is intended to capture the PR removal flag as one of several removal flags in the calculation of the "add liquidity" ratio. The Exchange believes this amendment supports the Exchange's efforts to achieve consistent application and specificity among the flags on the fee schedule and provide transparency for its Members. In SR-EDGX-2011-31, the Exchange included "removal flags" in its calculation of the "add liquidity" ratio.[17] Since Flag PR is a removal flag, the Exchange believes it is appropriate to include the removal volume from Flag PR in its calculation of the "add liquidity" ratio. The Exchange also believes that these proposed amendments are non-discriminatory because they apply 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

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NYSE-99-48) (citing academic studies finding that the required display of customer limit orders, by providing greater price transparency and enhancing public price discovery, led to substantial reductions in transaction costs for both retail and institutional investors).

16 See Securities Exchange Act Release No. 65541 (October 12, 2011), 76 FR 64409 (October 18, 2011) (SR-EDGX-2011-31).

17 Id.

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

This 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 Act[18] and Rule 19b-4(f)(2)[19] 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:

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18 15 U.S.C. 78s(b)(3)(A).

19 17 CFR 240.19b-4(f)(2).

- 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-2012-39 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-2012-39. 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 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-2012-39 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.[20]

Secretary

20 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Additions underlined

Deletions [bracketed]

EDGX Exchange Fee Schedule – Effective September 1, 2012

Download in pdf format.

Rebates & Charges for Adding, Removing or Routing Liquidity per Share for Tape A, B, & C Securities[1,a,b,d]: Rebates indicated by parentheses ( )

Footnotes provide further explanatory text or, where annotated to flags, indicate variable rate changes, provided the conditions in the footnote are met

Category	Adding Liquidity	Removing Liquidity	Routing Liquidity
Securities at or above $1.00	$(0.0023)[1,a,13,c]	$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 BX, removes liquidity	(0.0005)
D[3,a]	Routed or re-routed to NYSE, removes liquidity	0.0023

F	**Routed to NYSE, adds liquidity**	**(0.0015)**
G	**Routed to NYSE Arca (Tapes A or C), removes liquidity**	**0.0030**
I	**Routed to EDGA**	**0.0029**
J[3,a]	**Routed to NASDAQ, removes liquidity**	**0.0030**
K	**Routed to PSX using ROUC or ROUE routing strategy**	**0.0027**
L[3]	**Routed to NASDAQ using INET routing strategy, removes liquidity (Tapes A or C)**	**0.0030**
M[6,]a	**Add liquidity on LavaFlow**	**(0.0024)**
N[1, 12]	**Remove liquidity from EDGX book (Tape C)**	**0.0029**
O[5,a]	**Routed to primary exchange's opening cross**	**0.0005**
Q	**Routed using ROUC routing strategy**	**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**
2[3]	**Routed to NASDAQ using INET routing strategy, removes liquidity (Tape B)**	**0.0030**
3[1,a[,12]]	**Add liquidity – pre & post market (Tapes A or C)**	**(0.0023)**
4[1,a[,12]]	**Add liquidity – pre & post market (Tape B)**	**(0.0023)**
5[11]	**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, adds liquidity**	**(0.0015)**
9	**Routed to NYSE Arca, adds liquidity (Tapes A or C)**	**(0.0021)**
10	**Routed to NYSE Arca, adds liquidity (Tape B)**	**(0.0022)**

AA	**Midpoint Match Cross (same MPID)**	**FREE**
BB[1, 12]	**Remove liquidity from EDGX book (Tape B)**	**0.0029**
BY[10]	**Routed to BATS BYX Exchange, removes liquidity (using routing strategies ROUC, ROUE or ROBY)**	**(0.0002)**
CL[9]	**Routed to listing market closing process, except for NYSE Arca & BATS BZX**	**0.0010**
EA[11]	**Internalization, adds liquidity**	**0.00035**
ER[11]	**Internalization, removes liquidity**	**0.00035**
HA[1,12]	**Non-Displayed Orders that add liquidity (not including Midpoint Match orders)**	**(0.0015)**
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**
PI[1, 12]	**Remove liquidity from EDGX book against Midpoint Match**	**0.0029**
PR	**Remove liquidity from EDGX book using ROUQ routing strategy**	**0.0027**
RA	**Routed to EDGA, adds liquidity**	**[(0.0003)]** **<u>0.0006</u>**
RB	**Routed to BX, adds liquidity**	**0.0018**
RC	**Routed to NSX, adds liquidity**	**(0.0026)**
[RM]	**[Routed to CHX, adds liquidity]**	**[FREE]**
RQ	**Routed using ROUQ routing strategy**	**0.0027**
RR	**Routed to EDGA using routing strategies IOCX or IOCT, removes liquidity**	**[0.0007]** **<u>(0.0004)</u>**
RS	**Routed to PSX, adds liquidity**	**(0.0016)**
RW	**Routed to CBSX, adds liquidity**	**0.0017**
RY	**Routed to BATS BYX, adds liquidity**	**0.0003**
RZ	**Routed to BATS BZX, adds liquidity**	**(0.0025)**
SW[8]	**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 $0.0035[4] per share for all liquidity posted on EDGX if they add or route at least [4]2,000,000 shares of average daily volume ("ADV") prior to 9:30 AM or after 4:00 PM (includes all flags except 6) AND add a minimum of [20] 35,000,000 shares of ADV 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 ADV 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, BB and PI. Where a Member does not meet the criteria for the Mega Tier, then a removal rate of $0.0030 per share applies.

[Members can qualify for the Mega Tape B Tier and be provided a $0.0034 rebate per share for liquidity added on EDGX in Tape B securities if the Member on a daily basis, measured monthly: (i) posts greater than or equal to .10% of the TCV in ADV more than their January 2012 ADV added to EDGX; and (ii) posts greater than or equal to .10% of the TCV in ADV in Tape B securities more than their January 2012 ADV added to EDGX.]

Members can qualify for the Market Depth Tier and receive a rebate of $0.0033 per share for displayed liquidity added on EDGX if they post greater than or equal to 0.50% of the TCV in ADV on EDGX in total, where at least 2 million shares are Non-Displayed Orders that yield Flag HA.

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 TCV in ADV; or (ii) if the Member on a daily basis, measured monthly, posts 0.12% of the TCV in ADV more than their February 2011 ADV 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 ADV to EDGX.

[Members can qualify for the Mini Tape B Tier and be provided a $0.0030 rebate per share for liquidity added on EDGX in Tape B securities if the Member on a daily basis, measured monthly: (i) posts greater than or equal to .05% of the TCV in ADV more than their January 2012 ADV added to EDGX; and (ii) posts greater than or equal to .05% of the TCV in ADV in Tape B securities more than their January 2012 ADV added to EDGX.]

Members can qualify for the Super Tier and be provided a $0.0028 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 ADV to EDGX.

Members that post 0.065% of the TCV in ADV more than their February 2011 ADV added to EDGX will qualify for a $0.0028 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 ADV of liquidity to EDGX, (ii) where such added liquidity on EDGX is at least 5,000,000 shares of ADV 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 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 & BATS BZX's closing processes.

[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 internalization (Flags 5, EA or ER) decreases to $0.0001 per share per side.

For Flags EA or ER, if a Member internalizes more than 4% of their ADV on EDGX (added, removed, and routed liquidity) and the Member, at a minimum, meets the criteria for the Mega Tier rebate of $0.0032 per share in footnote 1, above, then the Member receives the applicable rebate in footnote 1 for adding liquidity, or is charged the applicable removal rate in footnote 1 or 12.

[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 are defined as B, HA, V, Y, MM, 3, or 4 and removal flags are defined as BB, MT, N, W, PI, PR, 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.

[13] Members can qualify for an Investor Tier and be provided a rebate of $0.0030 per share if they meet the following criteria: (i) on a daily basis, measured monthly, posts an ADV of at least 8 million shares on EDGX where added flags are defined as B, HA, V, Y, MM, 3, or 4; (ii) have an "added liquidity" to "removed liquidity" ratio of at least 60% where added flags are defined as B, HA, V, Y, MM, 3, or 4 and removal flags are defined as BB, MT, N, W, PI, PR, or 6; and (iii) have a message-to-trade ratio of less than 6:1.

[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.

[c] Receipt of the maximum rebate for which a Member is eligible depends upon an average inbound message-to-trade ratio being equal to or less than 100:1, measured monthly, where the message-to-trade ratio equals total messages (orders, cancels, and cancel/replaces) divided by executions. The Exchange counts all fills against an order as one trade for purposes of executions. Where a Member exceeds the 100:1 message-to-trade ratio, measured monthly, the Exchange will reduce its rebates by $0.0001 per share, without regard to the rebate tier for which the Member qualifies.

The following Members are exempt from this reduction in rebate: (i) All Members that send less than 1,000,000 messages/day to the Exchange; and (ii) Registered Market Makers provided that they are registered in at least 100 securities over the course of a month and are meeting their continuous, two-sided quoting obligations under Rule 11.21(d) on at least 10 consecutive trading days in the month. With respect to (ii) above, the Exchange notes that all MPIDs that are wholly-owned affiliates of the Member are exempt from MEIP as long as one MPID satisfies the above criteria for an exemption from the reduction in rebate.

The Exchange may exclude one or more days of data for purposes of calculating the message-to-trade ratio for a Member if the Exchange determines, in its sole discretion, that one or more Members or the Exchange was experiencing a bona fide system problem.

[d] A charge of 1% per month on the past due portion of the balance will be assessed on a Member's account that is past due. This fee will begin to accrue on a daily basis for items not paid within the 30 day payment terms until the item is paid in full. Late fees incurred will be included as line items on subsequent invoices.

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