

Required fields are shown with yellow backgrounds and asterisks.

Filing 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) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) <input type="checkbox"/> Section 806(e)(2) <input type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input type="checkbox"/>
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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 action (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 action.

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.

(Title \*)

Date

By

(Name \*)

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 EFFF website.

**Form 19b-4 Information \***

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 \***

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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies**

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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, security-based swap submission, or advance notice 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

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**

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. (“EDGX” or the “Exchange”) proposes to amend its fees and rebates applicable to Members<sup>1</sup> and non-Members 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 Exchange’s 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, Inc.  
201-418-3471

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

### (a) Purpose

In SR-EDGX-2010-06,<sup>2</sup> the Exchange proposed to adopt an annual fee per physical port utilized by Members and non-Members to connect to the Exchange’s System<sup>3</sup> for order entry and the receipt of Exchange data, among other reasons. A physical port is a port used by a Member or non-Member to connect into the Exchange at the data centers where Exchange servers are located. Physical port connections can occur either through an external telecommunication

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<sup>1</sup> As defined in Exchange Rule 1.5(n).

<sup>2</sup> See Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599 (July 9, 2010) (SR-EDGX-2010-06).

<sup>3</sup> As defined in Exchange Rule 1.5(cc).

circuit or a cross-connection. The Exchange noted at the time of filing that other market centers provided similar services.<sup>4</sup>

In SR-EDGX-2010-21,<sup>5</sup> the Exchange amended its fee schedule, effective January 1, 2011, to allow Members and non-Members the option of paying monthly fees for physical ports used to enter orders in the Exchange's System.

The Exchange proposes to amend its fee schedule to eliminate the option for Members and non-Members to pay for physical ports on an annual basis. The Exchange's current monthly rates that it charges Members and non-Members for physical ports remains unchanged; therefore, the Exchange will assess a monthly fee of \$500 per physical port that connects to the Exchange's System via 1 gigabyte Copper circuits; \$750 per physical port that connects to the Exchange's System via 1 gigabyte Fiber circuits; and \$1,000 per physical port that connects to the Exchange's System via 10 gigabyte Fiber circuits. In addition, the Exchange proposes to prorate for the month of January 2013 only the annual fee paid by Members or non-Members who currently have annual billing as of January 1, 2013 and then convert those Members or non-Members to monthly billing starting in February 2013, subject to the execution of a new contract that the Exchange has distributed to all Members and non-Members to reflect this change.<sup>6</sup> Furthermore, Direct Edge represents that its Members and non-Members who currently have annual contracts for physical ports have either consented to be converted to a month-to-month contract at the proposed rates, or elected to terminate their contract because they no longer require the service.

The Exchange proposes to implement these amendments to its fee schedule on February 1, 2013. Members and Non-Members were notified of the planned changes on November 8, 2012 and through subsequent direct communication.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Securities Exchange Act of 1934 (the "Act"),<sup>7</sup> in general, and furthers the

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<sup>4</sup> See Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599, 39600 (July 9, 2010) (SR-EDGX-2010-06) (citing Securities Exchange Act Release No. 61545 (February 19, 2010), 75 FR 8769 (February 25, 2010) (SR-BATS-2009-032) and Securities Exchange Act Release No. 62392 (June 28, 2010), 75 FR 38857 (July 6, 2010) (SR-NASDAQ-2010-077)).

<sup>5</sup> See Securities Exchange Act Release No. 63520 (December 10, 2010), 75 FR 78794 (December 16, 2010) (SR-EDGX-2010-21).

<sup>6</sup> For example, Members or non-Members who are currently billed annually will pay \$416 per physical port for 1GB copper circuits (\$5,000 annual fee/ 12 months) for the month of January 2013 only and then shift to a monthly billing arrangement and pay \$500 per physical port from February 2013 – December 2013 (monthly billing).

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

objectives of Section 6(b)(4),<sup>8</sup> in particular, as it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposal represents an equitable allocation of reasonable dues, fees, and other charges as its billing for port fees is reasonably constrained by competitive alternatives. For example, the change to monthly billing is reasonable because it is consistent with the monthly options offered by other exchanges, such as the BATS Exchange, Inc. (“BATS”) and NASDAQ Stock Market LLC (“NASDAQ”).<sup>9</sup> Furthermore, Members and other persons using the Exchange facilities also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members. Members and non-Members also have the ability to choose lower cost connection service types and still obtain access to all EDGX services.

Furthermore, the fees associated with physical ports will continue to be equitably allocated and non-discriminatory as they will continue to be uniform in application to all Members and non-Members. Members and non-Members will continue to choose whether they want more than one physical port and choose the method of connectivity based on their specific needs.

The proposed rule change is also an equitable allocation of reasonable dues, fees, and other charges because, for Members and non-Members, the payment of physical connectivity fees on a monthly basis provides administrative benefits over payments made on an annual basis. For example, payment on a monthly basis allows Members and non-Members to opt-in or opt-out of physical connectivity on thirty (30) days’ notice. Members and non-Members that choose to cancel their physical connectivity within the thirty (30) days’ notice will have no recurring obligation.

Finally, the proposed rule change is also an equitable allocation of reasonable dues, fees, and other charges as the Exchange believes that the increased fees obtained through the monthly port fees over the course of a year over annual port fees (an increase of \$1,000 per year per port on all 1Gb copper circuits, \$1,500 per year per port on all 1Gb Fiber circuits, and \$2,000 per year per port on all 10 Gb Fiber circuits) will enable it to cover its increased infrastructure costs associated with allowing Members and non-Members to establish physical ports to connect to the Exchange’s systems and continue to maintain and improve its infrastructure, market technology, and services. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members and non-Members. The Exchange believes the fees and monthly billing option remain competitive with those charged by other

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

<sup>9</sup> The Exchange notes that BATS and NASDAQ only allow for payment of physical port fees on a monthly basis. See BATS Exchange, Inc., BATS BZX and BYX Exchange Fee Schedules, [http://cdn.batstrading.com/resources/regulation/rule\\_book/BATS-Exchanges\\_Fee\\_Schedules.pdf](http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf); NASDAQ Stock Market LLC, Price List – Trading & Connectivity, <http://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2>.

exchanges and therefore continue to be reasonable and equitably allocated to Members and non-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 Act. Proposing to eliminate payment for physical connectivity on an annual basis does not introduce a burden on competition as exchanges such as BATS and NASDAQ currently only allow payment for physical connectivity on a monthly basis.<sup>10</sup> In addition, the proposed rule change does not impose any burden on intramarket competition as payment on a monthly basis is available to all Members and non-Members. In addition, Members and non-Members also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members.

Fees for market access will be a component of the overall fees charged by the Exchange to execute and route orders through the Exchange. As the Commission has recognized, the market for execution and routing services is extremely competitive.<sup>11</sup> Market participants that choose not to connect directly to the Exchange can readily access liquidity available on the Exchange by directing their order flow to other venues that, under Regulation NMS, must route to the Exchange if it has posted the best price. Accordingly, the Exchange must set its fees and billing options, including access service fees, at a level and in such a way that will not deter market participants from connecting to the Exchange; otherwise, potential users of the Exchange's services will simply direct order flow to the Exchange's multiple competitors.

#### 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)

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<sup>10</sup> Id.

<sup>11</sup> See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

(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<sup>12</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>13</sup>

(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. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

(a) – (e) Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

(a) – (e) Not applicable.

11. Exhibits

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

Exhibit 5 – Text of the Proposed Rule Change.

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

## EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-EDGX-2013-03)

[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"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 30, 2013, EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> 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

1. Purpose

In SR-EDGX-2010-06,<sup>4</sup> the Exchange proposed to adopt an annual fee per physical port utilized by Members and non-Members to connect to the Exchange's System<sup>5</sup> for order entry and the receipt of Exchange data, among other reasons. A physical port is a port used by a Member or non-Member to connect into the Exchange at the data centers where Exchange servers are located. Physical port connections can occur either through an external telecommunication circuit or a cross-connection. The Exchange noted at the time of filing that other market centers provided similar services.<sup>6</sup>

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<sup>4</sup> See Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599 (July 9, 2010) (SR-EDGX-2010-06).

<sup>5</sup> As defined in Exchange Rule 1.5(cc).

<sup>6</sup> See Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599, 39600 (July 9, 2010) (SR-EDGX-2010-06) (citing Securities Exchange Act Release No. 61545 (February 19, 2010), 75 FR 8769 (February 25, 2010) (SR-BATS-2009-032) and Securities Exchange Act Release No. 62392 (June 28, 2010), 75 FR 38857 (July 6, 2010) (SR-NASDAQ-2010-077)).

In SR-EDGX-2010-21,<sup>7</sup> the Exchange amended its fee schedule, effective January 1, 2011, to allow Members and non-Members the option of paying monthly fees for physical ports used to enter orders in the Exchange's System.

The Exchange proposes to amend its fee schedule to eliminate the option for Members and non-Members to pay for physical ports on an annual basis. The Exchange's current monthly rates that it charges Members and non-Members for physical ports remains unchanged; therefore, the Exchange will assess a monthly fee of \$500 per physical port that connects to the Exchange's System via 1 gigabyte Copper circuits; \$750 per physical port that connects to the Exchange's System via 1 gigabyte Fiber circuits; and \$1,000 per physical port that connects to the Exchange's System via 10 gigabyte Fiber circuits. In addition, the Exchange proposes to pro-rate for the month of January 2013 only the annual fee paid by Members or non-Members who currently have annual billing as of January 1, 2013 and then convert those Members or non-Members to monthly billing starting in February 2013, subject to the execution of a new contract that the Exchange has distributed to all Members and non-Members to reflect this change.<sup>8</sup> Furthermore, Direct Edge represents that its Members and non-Members who currently have annual contracts for physical ports have either consented to be converted to a month-to-month contract at the proposed rates, or elected to terminate their contract because they no longer require the service.

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<sup>7</sup> See Securities Exchange Act Release No. 63520 (December 10, 2010), 75 FR 78794 (December 16, 2010) (SR-EDGX-2010-21).

<sup>8</sup> For example, Members or non-Members who are currently billed annually will pay \$416 per physical port for 1GB copper circuits (\$5,000 annual fee/ 12 months) for the month of January 2013 only and then shift to a monthly billing arrangement and pay \$500 per physical port from February 2013 – December 2013 (monthly billing).

The Exchange proposes to implement these amendments to its fee schedule on February 1, 2013. Members and Non-Members were notified of the planned changes on November 8, 2012 and through subsequent direct communication.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>10</sup> in particular, as it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposal represents an equitable allocation of reasonable dues, fees, and other charges as its billing for port fees is reasonably constrained by competitive alternatives. For example, the change to monthly billing is reasonable because it is consistent with the monthly options offered by other exchanges, such as the BATS Exchange, Inc. (“BATS”) and NASDAQ Stock Market LLC (“NASDAQ”).<sup>11</sup> Furthermore, Members and other persons using the Exchange facilities also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members.

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<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> The Exchange notes that BATS and NASDAQ only allow for payment of physical port fees on a monthly basis. See BATS Exchange, Inc., BATS BZX and BYX Exchange Fee Schedules, [http://cdn.batstrading.com/resources/regulation/rule\\_book/BATS-Exchanges\\_Fee\\_Schedules.pdf](http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf); NASDAQ Stock Market LLC, Price List – Trading & Connectivity, <http://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2>.

Members and non-Members also have the ability to choose lower cost connection service types and still obtain access to all EDGX services.

Furthermore, the fees associated with physical ports will continue to be equitably allocated and non-discriminatory as they will continue to be uniform in application to all Members and non-Members. Members and non-Members will continue to choose whether they want more than one physical port and choose the method of connectivity based on their specific needs.

The proposed rule change is also an equitable allocation of reasonable dues, fees, and other charges because, for Members and non-Members, the payment of physical connectivity fees on a monthly basis provides administrative benefits over payments made on an annual basis. For example, payment on a monthly basis allows Members and non-Members to opt-in or opt-out of physical connectivity on thirty (30) days' notice. Members and non-Members that choose to cancel their physical connectivity within the thirty (30) days' notice will have no recurring obligation.

Finally, the proposed rule change is also an equitable allocation of reasonable dues, fees, and other charges as the Exchange believes that the increased fees obtained through the monthly port fees over the course of a year over annual port fees (an increase of \$1,000 per year per port on all 1Gb copper circuits, \$1,500 per year per port on all 1Gb Fiber circuits, and \$2,000 per year per port on all 10 Gb Fiber circuits) will enable it to cover its increased infrastructure costs associated with allowing Members and non-Members to establish physical ports to connect to the Exchange's systems and continue to maintain and improve its infrastructure, market technology, and services. The Exchange believes that the proposed rates are equitable and non-discriminatory in that

they apply uniformly to all Members and non-Members. The Exchange believes the fees and monthly billing option remain competitive with those charged by other exchanges and therefore continue to be reasonable and equitably allocated to Members and non-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. Proposing to eliminate payment for physical connectivity on an annual basis does not introduce a burden on competition as exchanges such as BATS and NASDAQ currently only allow payment for physical connectivity on a monthly basis.<sup>12</sup> In addition, the proposed rule change does not impose any burden on intramarket competition as payment on a monthly basis is available to all Members and non-Members. In addition, Members and non-Members also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members.

Fees for market access will be a component of the overall fees charged by the Exchange to execute and route orders through the Exchange. As the Commission has recognized, the market for execution and routing services is extremely competitive.<sup>13</sup> Market participants that choose not to connect directly to the Exchange can readily access liquidity available on the Exchange by directing their order flow to other venues that,

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<sup>12</sup> Id.

<sup>13</sup> See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

under Regulation NMS, must route to the Exchange if it has posted the best price.

Accordingly, the Exchange must set its fees and billing options, including access service fees, at a level and in such a way that will not deter market participants from connecting to the Exchange; otherwise, potential users of the Exchange's services will simply direct order flow to the Exchange's multiple competitors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(2)<sup>15</sup> thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 19b-4(f)(2).

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGX-2013-03 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-EDGX-2013-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-EDGX-2013-03 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

**Additions underlined**

**Deletions [bracketed]**

**EDGX Exchange Fee Schedule – Effective February [January] 1, 2013**

**Download in pdf format.**

\* \* \* \* \*

[Effective August 10, 2010]

Physical Connectivity Fees:

Effective February 1, 2013

Members and non-members [can choose either an annual or] must pay a monthly fee for physical connectivity per the table below:

Connection Service Type	[Annual Fee per Physical Port]	Monthly Fee per Physical Port[*]
1 Gb Copper	[\$5,000]	\$500
1 Gb Fiber	[\$7,500]	\$750
10 Gb Fiber	[\$10,000]	\$1,000

[\*Effective January 1, 2011]