

## OMB APPROVAL

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Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 24

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

File No.\* SR - 2013 - \* 26

Amendment No. (req. for Amendments \*)

Filing by EDGA 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"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <input type="text"/>			Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input 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)



Section 806(e)(2)



Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2)



Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document



### Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

EDGA Exchange, Inc. proposes to amend its fees and rebates applicable to Members of the Exchange pursuant to EDGA 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 \* Chris Last Name \* Solgan  
 Title \* Regulatory Counsel  
 E-mail \* csolgan@directedge.com  
 Telephone \* (201) 942-8321 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 08/30/2013

By Chris Solgan

(Name \*)

Regulatory Counsel

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.

csolgan@directedge.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFT 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**

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Exhibit Sent As Paper Document

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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**

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

## 1. Text of the Proposed Rule Change

(a) Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act” or “Exchange Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> EDGA Exchange, Inc. (“EDGA” or the “Exchange”) proposes to amend its fees and rebates applicable to Members<sup>3</sup> of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (“Fee Schedule”) to: (i) decrease the fee for orders yielding Flag RP; (ii) add the Step-Up Tier 2; and (iii) move the bullets related to “added flags,” “removal flags,” and “routed flags” from the Definitions section to the General Notes section. The text of the proposed rule change is attached as Exhibit 5.

(b) Inapplicable.

(c) Inapplicable.

## 2. Procedures of the Self-Regulatory Organization

The Exchange submits the proposed rule change 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 and, 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  
EDGA 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 amend its Fee Schedule to: (i) decrease the fee for orders yielding Flag RP; (ii) add the Step-Up Tier 2; and (iii) move the bullets related to “added flags,” “removal flags,” and “routed flags” from the Definitions section to the General Notes section.

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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).

### Flag RP

Currently, the Exchange assesses a fee of \$0.0005 per share for non-displayed orders that add liquidity using the Route Peg order type, yielding Flag RP. The Exchange proposes to decrease this rate from a fee of \$0.0005 to \$0.0004 per share, resulting in a rate that is \$0.0001 below the standard rate of \$0.0005 for adding liquidity on the Exchange.

### Addition of Step-Up Tier 2

Currently, Footnote 4 of the Fee Schedule contains the Step-Up Tier, which provides Members with a reduced fee of \$0.0003 per share to add liquidity to the Exchange when the Member, on an MPID basis, adds more than 0.10% of the total consolidated volume ("TCV") on EDGA on a daily basis, measured monthly, more than the MPID's December 2012 added TCV. Where an MPID's December 2012 TCV is zero, the Exchange applies a default TCV baseline of 10,000,000 shares. The Exchange proposes to add the Step-Up Tier 2 to Footnote 4 of the Fee Schedule. The Step-Up Tier 2 would provide Members with a reduced fee of \$0.0003 per share to add liquidity to the Exchange when the Member: (i) on an MPID basis, adds more than 0.05% of the TCV on EDGA on a daily basis, measured monthly, more than the MPID's December 2012 added TCV; and (ii) has an "added liquidity" to "added plus removed liquidity" ratio of at least 85%. Where an MPID's December 2012 TCV is zero, the Exchange would apply a default TCV baseline of 10,000,000 shares.

The Exchange also proposes to change the name of the Step-Up Tier to the "Step-Up Tier 1" to differentiate it from the proposed Step-Up Tier 2. Furthermore, the Exchange proposes to remove the phrase "Volume from non-displayed orders that add liquidity will count towards this tier" under the Step-Up Tier 1 because the Fee Schedule includes the flags assigned to non-displayed orders that add liquidity (DM, HA, PA and RP) in the list of added flags that count towards tiers under the Definitions section (proposed to be moved to the General Notes section, see below). The Exchange notes that volume from non-displayed orders that add liquidity will continue to count towards the volume tiers in Footnote 4, and would also count towards the proposed Step-Up Tier 2.

### Amendments to Lists of Added, Removal and Routed Flags

Currently, the Definitions section in the Fee Schedule contains three bullets that contain the list of applicable "added flags," "removal flags," and "routed flags," that may be considered when calculating whether a Member satisfied a certain tier. The Exchange proposes to move the text contained within each of the three bullets to the General Notes section. In addition, the Exchange proposes to re-word the text of each bullet to improve readability and remove references to the flags as defined terms. For example, the amended bullet regarding added flags would read as follows: "Unless otherwise indicated, the following added flags are counted towards tiers..." The Exchange notes that the list of added/removal/routed flags associated with each bullet would remain unchanged.

### Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on September 3, 2013.

### (b) Statutory Basis

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

### Flag RP

The Exchange believes that amending the fee for orders that yield Flag RP from \$0.0005 to \$0.0004 per share represents an equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities because a rate of \$0.0004 continues to be less than the prevailing rates for other forms of non-displayed order types that add liquidity (e.g., the Exchange assesses a charge of \$0.0005 per share for non-displayed orders that add liquidity using the Midpoint Discretionary order type yielding Flag DM and \$0.0010 per share for non-displayed orders that add liquidity yielding Flag HA).<sup>6</sup> Within the non-displayed category of liquidity, Route Peg orders have the lowest order book priority, followed by Midpoint Discretionary orders and then non-displayed orders. Lower order book priority correlates to a lower chance of execution, which justifies a lower fee. Therefore, the Exchange is proposing to continue to offer a lower fee for Flag RP. Furthermore, the Exchange notes that the proposed rate change is in response to the August 2013 change in the standard rate from a fee of \$0.0006 per share to \$0.0005 per share for adding liquidity on EDGA.<sup>7</sup> The proposed change would cause the fee for Flag RP to continue to be \$0.0001 per share below the standard rate for adding liquidity on the Exchange. Lastly, the Exchange believes that the proposed rate is non-discriminatory in that it would apply uniformly to all Members.

### Addition of Step-Up Tier 2

The Exchange believes a reduced fee of \$0.0003 per share for adding liquidity provided by the Step-Up Tier 2 versus the standard fee of \$0.0005 per share represents an equitable allocation of reasonable dues, fees, and other charges since reduced fees reward higher liquidity

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<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> See Securities Exchange Act Release No. 67839 (September 12, 2012), 77 FR 57631 (September 18, 2012) (SR-EDGA-2012-41) (adding Flag RP to the Fee Schedule).

<sup>7</sup> See Securities Exchange Release No. 70146 (August 8, 2013), 78 FR 49574 (August 14, 2013) (SR-EDGA-2013-21).

provision commitments by Members. The Exchange believes that offering Members a reduced fee will incentivize adding liquidity on the Exchange. Such increased volume would increase potential revenue to the Exchange and allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, which would result in lower per share costs. The Exchange may then pass on these savings to Members in the form of reduced fees. The increased liquidity would also benefit all investors by deepening EDGA'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 reduced fees such as the proposed Step-Up Tier 2 have been widely adopted in the cash equities markets, and are equitable because volume-based reduced fees 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 process.

In addition, the criteria for the Step-Up Tier 2 is also reasonable as compared to similar pricing mechanisms employed by The Nasdaq Stock Market LLC ("Nasdaq") that also offers rebates and tiers to add liquidity through a single MPID.<sup>8</sup> The concept of a single MPID also encourages those MPIDs that do the most to enhance EDGA's market quality through unified management of a high volume of added liquidity. The Exchange also wishes to ensure that its Fee Schedule does not provide excessive encouragement to Members to aggregate the activity of multiple MPIDs for the sole purpose of achieving a tiered discounted rate. Thus, a Member that is not able to achieve the requisite level of liquidity provision will not be able to meet the threshold by coordinating and consolidating the trading activity of other related firms using multiple MPIDs. The Exchange believes that it is reasonable and equitable to offer a discounted rate to Members that provide volume through a single MPID because the Exchange believes that such Members are most likely to provide consistent liquidity during periods of market stress and to manage their quotes/orders in a coordinated manner that promotes price discovery and market stability.

The Exchange notes that the reduced fee provided by the Step-Up Tier 2 is equivalent to that provided by the Step-Up Tier 1. The Exchange believes that the reduced fee of \$0.0003 per share provided by the Step-Up Tier 2 is reasonable because, although the Step-Up Tier 2 requires a lower added TCV threshold in comparison to the Step-Up Tier 1, the Step-Up Tier 2 contains an additional requirement that the Member have an "added liquidity" to "added plus liquidity" ratio of at least 85%. The Exchange believes that the requirement that a Member have an "added liquidity" to "added plus removed liquidity" ratio of at least 85% is reasonable because it would incentivize Members aspiring to achieve the Step-Up Tier 2 to add liquidity to the Exchange. Members that primarily post liquidity are more valuable Members to the Exchange and the marketplace in terms of liquidity provision and would therefore be rewarded with a reduced fee for having a high "added liquidity" to "added plus removed liquidity" ratio.

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<sup>8</sup> See Nasdaq OMX, Price List – Trading & Connectivity, <http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

The Exchange also believes that removal of the phrase “Volume from non-displayed orders that add liquidity will count towards this tier” under the Step-Up Tier 1 is reasonable because the Fee Schedule already includes the flags assigned to non-displayed orders that add liquidity (DM, HA, PA and RP) in the list of added flags that count towards tiers under the Definitions section (proposed to be moved to the General Notes section, see below). The Exchange notes that volume from non-displayed orders that add liquidity will continue to count towards the volume tiers in Footnote 4, and would also count towards the proposed Step-Up Tier 2. The removal of such language from Footnote 4 eliminates redundancy and clarifies the Fee Schedule.

Lastly, the Exchange believes that the proposed Step-Up Tier 2 is non-discriminatory because it would apply uniformly to all Members.

#### Amendments to Lists of Added, Removal and Routed Flags

The Exchange believes that the proposed relocation and changes to the bullets related to “added flags,” “removal flags,” and “routed flags” in its Fee Schedule are reasonable because they provide Members with greater clarity with regard to which added, removal or routed flags count toward certain tiers, and remove potential confusion regarding the definition of such flags. The Exchange notes that the proposed change is not designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that the proposed amendment is intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

#### 4. Self-Regulatory Organization’s Statement on Burden on Competition

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange’s competitors. Additionally, Members may opt to disfavor EDGA’s pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

#### Flag RP

The Exchange believes that its proposal to decrease the fee for orders yielding Flag RP from \$0.0005 to \$0.0004 per share would increase intermarket competition because the lower fee for orders that yield Flag RP would incent market participants to send to the Exchange non-displayed orders that add liquidity using the Route Peg order type and yield Flag RP. The Exchange believes that the proposed rate change would neither increase nor decrease intramarket competition because the proposed rate would apply uniformly to all Members.

#### Addition of Step-Up Tier 2

The Exchange believes that the proposed addition of the Step-Up Tier 2 would increase intermarket competition as it would incentivize market participants to add liquidity to the Exchange in order to qualify for the reduced fee for adding liquidity. The Exchange believes that the Step-Up Tier 2 would neither increase nor decrease intramarket competition because the reduced fee for adding liquidity would be available to all Members that satisfy the criteria required to achieve the tier.

#### Amendments to Lists of Added, Removal and Routed Flags

The Exchange believes that the proposed relocation and changes to the bullets related to “added flags,” “removal flags,” and “routed flags” in its Fee Schedule would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. The proposed change is intended to provide greater transparency to Members with regard to which added, removal and routed flags are counted towards certain tiers.

#### 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<sup>9</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>10</sup>

(c) Inapplicable.

(d) Inapplicable.

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).



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

Not applicable.

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

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.

## EXHIBIT 1

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

[Date]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA 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 August 30, 2013, EDGA Exchange, Inc. (the “Exchange” or “EDGA”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its Fee Schedule to: (i) decrease the fee for orders yielding Flag RP; (ii) add the Step-Up Tier 2; and (iii) move the bullets related to “added flags,” “removal flags,” and “routed flags” from the Definitions section to the General Notes section. All of the changes described herein are applicable to EDGA Members.<sup>3</sup> The text of the proposed rule change is available on the Exchange’s Internet

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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).

website at [www.directedge.com](http://www.directedge.com), at the Exchange's principal office, and at the Public Reference Room of the Commission.

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

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

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

1. Purpose

The Exchange proposes to amend its Fee Schedule to: (i) decrease the fee for orders yielding Flag RP; (ii) add the Step-Up Tier 2; and (iii) move the bullets related to "added flags," "removal flags," and "routed flags" from the Definitions section to the General Notes section.

Flag RP

Currently, the Exchange assesses a fee of \$0.0005 per share for non-displayed orders that add liquidity using the Route Peg order type, yielding Flag RP. The Exchange proposes to decrease this rate from a fee of \$0.0005 to \$0.0004 per share, resulting in a rate that is \$0.0001 below the standard rate of \$0.0005 for adding liquidity on the Exchange.

Addition of Step-Up Tier 2

Currently, Footnote 4 of the Fee Schedule contains the Step-Up Tier, which provides Members with a reduced fee of \$0.0003 per share to add liquidity to the Exchange when the Member, on an MPID basis, adds more than 0.10% of the total consolidated volume (“TCV”) on EDGA on a daily basis, measured monthly, more than the MPID’s December 2012 added TCV. Where an MPID’s December 2012 TCV is zero, the Exchange applies a default TCV baseline of 10,000,000 shares. The Exchange proposes to add the Step-Up Tier 2 to Footnote 4 of the Fee Schedule. The Step-Up Tier 2 would provide Members with a reduced fee of \$0.0003 per share to add liquidity to the Exchange when the Member: (i) on an MPID basis, adds more than 0.05% of the TCV on EDGA on a daily basis, measured monthly, more than the MPID’s December 2012 added TCV; and (ii) has an “added liquidity” to “added plus removed liquidity” ratio of at least 85%. Where an MPID’s December 2012 TCV is zero, the Exchange would apply a default TCV baseline of 10,000,000 shares.

The Exchange also proposes to change the name of the Step-Up Tier to the “Step-Up Tier 1” to differentiate it from the proposed Step-Up Tier 2. Furthermore, the Exchange proposes to remove the phrase “Volume from non-displayed orders that add liquidity will count towards this tier” under the Step-Up Tier 1 because the Fee Schedule includes the flags assigned to non-displayed orders that add liquidity (DM, HA, PA and RP) in the list of added flags that count towards tiers under the Definitions section (proposed to be moved to the General Notes section, see below). The Exchange notes that volume from non-displayed orders that add liquidity will continue to count towards the volume tiers in Footnote 4, and would also count towards the proposed Step-Up Tier 2.

### Amendments to Lists of Added, Removal and Routed Flags

Currently, the Definitions section in the Fee Schedule contains three bullets that contain the list of applicable “added flags,” “removal flags,” and “routed flags,” that may be considered when calculating whether a Member satisfied a certain tier. The Exchange proposes to move the text contained within each of the three bullets to the General Notes section. In addition, the Exchange proposes to re-word the text of each bullet to improve readability and remove references to the flags as defined terms. For example, the amended bullet regarding added flags would read as follows: “Unless otherwise indicated, the following added flags are counted towards tiers...” The Exchange notes that the list of added/removal/routed flags associated with each bullet would remain unchanged.

### Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on September 3, 2013.

### 2. Statutory Basis

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

### Flag RP

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<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(4).

The Exchange believes that amending the fee for orders that yield Flag RP from \$0.0005 to \$0.0004 per share represents an equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities because a rate of \$0.0004 continues to be less than the prevailing rates for other forms of non-displayed order types that add liquidity (e.g., the Exchange assesses a charge of \$0.0005 per share for non-displayed orders that add liquidity using the Midpoint Discretionary order type yielding Flag DM and \$0.0010 per share for non-displayed orders that add liquidity yielding Flag HA).<sup>6</sup> Within the non-displayed category of liquidity, Route Peg orders have the lowest order book priority, followed by Midpoint Discretionary orders and then non-displayed orders. Lower order book priority correlates to a lower chance of execution, which justifies a lower fee. Therefore, the Exchange is proposing to continue to offer a lower fee for Flag RP. Furthermore, the Exchange notes that the proposed rate change is in response to the August 2013 change in the standard rate from a fee of \$0.0006 per share to \$0.0005 per share for adding liquidity on EDGA.<sup>7</sup> The proposed change would cause the fee for Flag RP to continue to be \$0.0001 per share below the standard rate for adding liquidity on the Exchange. Lastly, the Exchange believes that the proposed rate is non-discriminatory in that it would apply uniformly to all Members.

#### Addition of Step-Up Tier 2

The Exchange believes a reduced fee of \$0.0003 per share for adding liquidity provided by the Step-Up Tier 2 versus the standard fee of \$0.0005 per share represents an

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<sup>6</sup> See Securities Exchange Act Release No. 67839 (September 12, 2012), 77 FR 57631 (September 18, 2012) (SR-EDGA-2012-41) (adding Flag RP to the Fee Schedule).

<sup>7</sup> See Securities Exchange Release No. 70146 (August 8, 2013), 78 FR 49574 (August 14, 2013) (SR-EDGA-2013-21).

equitable allocation of reasonable dues, fees, and other charges since reduced fees reward higher liquidity provision commitments by Members. The Exchange believes that offering Members a reduced fee will incentivize adding liquidity on the Exchange. Such increased volume would increase potential revenue to the Exchange and allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, which would result in lower per share costs. The Exchange may then pass on these savings to Members in the form of reduced fees. The increased liquidity would also benefit all investors by deepening EDGA'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 reduced fees such as the proposed Step-Up Tier 2 have been widely adopted in the cash equities markets, and are equitable because volume-based reduced fees 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 process.

In addition, the criteria for the Step-Up Tier 2 is also reasonable as compared to similar pricing mechanisms employed by The Nasdaq Stock Market LLC ("Nasdaq") that also offers rebates and tiers to add liquidity through a single MPID.<sup>8</sup> The concept of a single MPID also encourages those MPIDs that do the most to enhance EDGA's market quality through unified management of a high volume of added liquidity. The Exchange also wishes to ensure that its Fee Schedule does not provide excessive encouragement to

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<sup>8</sup> See Nasdaq OMX, Price List – Trading & Connectivity, <http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

Members to aggregate the activity of multiple MPIDs for the sole purpose of achieving a tiered discounted rate. Thus, a Member that is not able to achieve the requisite level of liquidity provision will not be able to meet the threshold by coordinating and consolidating the trading activity of other related firms using multiple MPIDs. The Exchange believes that it is reasonable and equitable to offer a discounted rate to Members that provide volume through a single MPID because the Exchange believes that such Members are most likely to provide consistent liquidity during periods of market stress and to manage their quotes/orders in a coordinated manner that promotes price discovery and market stability.

The Exchange notes that the reduced fee provided by the Step-Up Tier 2 is equivalent to that provided by the Step-Up Tier 1. The Exchange believes that the reduced fee of \$0.0003 per share provided by the Step-Up Tier 2 is reasonable because, although the Step-Up Tier 2 requires a lower added TCV threshold in comparison to the Step-Up Tier 1, the Step-Up Tier 2 contains an additional requirement that the Member have an “added liquidity” to “added plus liquidity” ratio of at least 85%. The Exchange believes that the requirement that a Member have an “added liquidity” to “added plus removed liquidity” ratio of at least 85% is reasonable because it would incentivize Members aspiring to achieve the Step-Up Tier 2 to add liquidity to the Exchange. Members that primarily post liquidity are more valuable Members to the Exchange and the marketplace in terms of liquidity provision and would therefore be rewarded with a reduced fee for having a high “added liquidity” to “added plus removed liquidity” ratio.

The Exchange also believes that removal of the phrase “Volume from non-displayed orders that add liquidity will count towards this tier” under the Step-Up Tier 1



is reasonable because the Fee Schedule already includes the flags assigned to non-displayed orders that add liquidity (DM, HA, PA and RP) in the list of added flags that count towards tiers under the Definitions section (proposed to be moved to the General Notes section, see below). The Exchange notes that volume from non-displayed orders that add liquidity will continue to count towards the volume tiers in Footnote 4, and would also count towards the proposed Step-Up Tier 2. The removal of such language from Footnote 4 eliminates redundancy and clarifies the Fee Schedule.

Lastly, the Exchange believes that the proposed Step-Up Tier 2 is non-discriminatory because it would apply uniformly to all Members.

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

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGA's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Flag RP

The Exchange believes that its proposal to decrease the fee for orders yielding Flag RP from \$0.0005 to \$0.0004 per share would increase intermarket competition because the lower fee for orders that yield Flag RP would incent market participants to send to the Exchange non-displayed orders that add liquidity using the Route Peg order

type and yield Flag RP. The Exchange believes that the proposed rate change would neither increase nor decrease intramarket competition because the proposed rate would apply uniformly to all Members.

#### Addition of Step-Up Tier 2

The Exchange believes that the proposed addition of the Step-Up Tier 2 would increase intermarket competition as it would incentivize market participants to add liquidity to the Exchange in order to qualify for the reduced fee for adding liquidity. The Exchange believes that the Step-Up Tier 2 would neither increase nor decrease intramarket competition because the reduced fee for adding liquidity would be available to all Members that satisfy the criteria required to achieve the tier.

#### Amendments to Lists of Added, Removal and Routed Flags

The Exchange believes that the proposed relocation and changes to the bullets related to “added flags,” “removal flags,” and “routed flags” in its Fee Schedule would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. The proposed change is intended to provide greater transparency to Members with regard to which added, removal and routed flags are counted towards certain tiers.

#### 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>9</sup> and Rule 19b-4(f)(2)<sup>10</sup> thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### IV. Solicitation of Comments

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

#### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGA-2013-26 on the subject line.

#### Paper comments:

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

All submissions should refer to File Number SR-EDGA-2013-26. This file number should be included on the subject line if e-mail is used. To help the Commission process

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4 (f)(2).

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-EDGA-2013-26 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).

**Exhibit 5**

Additions are underlined

Deletions are [bracketed]

**EDGA Exchange, Inc. Fee Schedule – Effective [August 5] September 3, 2013**

**Download in pdf format.**

**Rebates & Charges for Adding, Removing or Routing Liquidity per share for Tape A, B, & C securities<sup>1</sup>:**

Rebates indicated by parentheses ( ).

The rates listed in the Standard Rates table apply unless a Member is assigned a liquidity flag other than a standard flag. If a Member is assigned a liquidity flag other than a standard flag, the rates listed in the Liquidity Flags table will apply.

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

**Standard Rates:**

Category	Adding Liquidity	Removing Liquidity	Routing and Removing Liquidity
Securities at or above \$1.00	\$0.0005 <sup>4</sup>	\$(0.0002) <sup>1</sup>	\$0.0029
Securities below \$1.00	FREE	FREE <sup>1</sup>	0.30% of Dollar Value
Standard Flags	B, V, Y, 3, 4	N, W, 6, BB, CR, PR, XR	X

**Liquidity Flags:**

Flag	Description	Fee/(Rebate) Securities at or above \$1.00	Fee/(Rebate) Securities below \$1.00
A-RC	(No changes)		
RP	Non-Displayed Orders, adds liquidity (using Route Peg Order)	0.0004 <sup>5</sup>	FREE
RR-XR	(No changes)		

**Definitions:** [

- Added Flags are defined as the following flags that are counted towards tiers, where applicable: B, V, Y, DM, HA, PA, RP, 3 and 4.
- Removal Flags are defined as the following flags that are counted towards tiers, where applicable: BB, N, W, CR, DT, HR, PR, PT, XR and 6.
- Routed Flags are defined as the following flags that are counted towards tiers, where applicable: A, C, D, F, G, I, J, K, L, M, O, P, Q, R, S, T, U, X, Z, 2, 7, 8, 9, 10, BY, CL, PX, RA, RB, RC, RM, RR, RS, RT, RW, RX, RY, RZ and SW.]
- Average Daily Volume (“ADV”) is defined as the average daily volume of shares that a Member executed on the Exchange for the month in which the fees are calculated.
- Total Consolidated Volume (“TCV”) is defined as the 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 in which the fees are calculated.

**General Notes:**

- Unless otherwise indicated, the following added flags are counted towards tiers: B, V, Y, DM, HA, PA, RP, 3 and 4.
- Unless otherwise indicated, the following removal flags are counted towards tiers: BB, N, W, CR, DT, HR, PR, PT, XR and 6.
- Unless otherwise indicated, the following routed flags are counted towards tiers: A, C, D, F, G, I, J, K, L, M, O, P, Q, R, S, T, U, X, Z, 2, 7, 8, 9, 10, BY, CL, PX, RA, RB, RC, RM, RR, RS, RT, RW, RX, RY, RZ and SW.
- The Exchange notes that to the extent a Member does not qualify for any of the tiers listed below, the rates listed in the above section titled “Liquidity Flags” will apply.
- To the extent a Member qualifies for higher rebates and/or lower fees than those provided by a tier for which such Member qualifies, the higher rebates and/or lower fees shall apply.
- Trading activity on days when the market closes early does not count toward volume tiers.
- Upon a Member’s request, EDGA will aggregate share volume calculations for wholly owned affiliates on a prospective basis.

- Variable rates provided by tiers apply only to executions in securities priced at or above \$1.00.

**Footnotes:**

<sup>1-3</sup> (No changes)

<sup>4</sup> **Add Volume Tiers:**

The fee to add provided by the below add volume tiers is applicable to the following flags: B, V, Y, 3 and 4.

Tier	Fee per share to Add	Required Criteria
Volume Tier 1	\$0.0003	Add more than 1% of the TCV in ADV on EDGA, including non-displayed orders that add liquidity on a daily basis, measured monthly.
Volume Tier 2	\$0.0003	(1) Add more than 0.25% of the TCV on EDGA, including non-displayed orders that add liquidity; and  (2) Remove more than 0.25% of the TCV in ADV on a daily basis, measured monthly.
Step-Up Tier 1	\$0.0003	On an MPID basis, add more than 0.10% of the TCV on EDGA on a daily basis, measured monthly, more than the MPID's December 2012 added TCV.  Where an MPID's December 2012 TCV is zero, then the Exchange applies a default TCV baseline of 10,000,000 shares.  [Volume from non-displayed orders that add liquidity will count towards this tier.]
Step-Up Tier 2	\$0.0003	<u>On an MPID basis:</u>  <u>(1) Add more than 0.05% of the TCV on EDGA on a daily basis, measured monthly, more than the MPID's December 2012 added TCV; and</u>  <u>(2) Have an "added liquidity" to "added plus removed liquidity" ratio of at least 85%.</u>  <u>Where an MPID's December 2012 TCV is zero, then the Exchange applies a default TCV baseline of 10,000,000 shares.</u>

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