

OMB APPROVAL

OMB Number: 3235-0045
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Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 21

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

File No.* SR - 2017 - * 29

Amendment No. (req. for Amendments *)

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

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

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

Section 806(e)(1) *

☐

Section 806(e)(2) *

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Section 3C(b)(2) *

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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 *).

The Exchange proposes to amend paragraph (e) of Exchange Rule 11.8, Order Types, to clarify when a MidPoint Discretionary Orders may execute at sub-penny prices.

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 * Assistant General Counsel
 E-mail * csolgan@cboe.com
 Telephone * (646) 856-8723 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 11/02/2017

By Chris Solgan

(Name *)

Assistant General 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@bats.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 *

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

Exhibit 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

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

Partial Amendment

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

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² Cboe EDGA Exchange, Inc. (“EDGA” or the “Exchange”) (formerly known as Bats EDGA Exchange, Inc.) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to amend paragraph (e) of Exchange Rule 11.8, Order Types, to clarify when a MidPoint Discretionary Orders (“MDO”) may execute at sub-penny prices. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.³

The text of the proposed rule change is available on the Exchange’s website at <http://markets.cboe.com/>, at the Exchange’s principal office and at the Public Reference Room of the Commission.

(b) The Exchange does not believe that the proposed rule change will have any direct or significant indirect effect on any other Exchange rule in effect at the time of this filing.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Exchange submits the proposed rule change pursuant to authority delegated by the Board of Directors of the Exchange on February 11, 2014. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

Exchange's internal procedures with respect to the proposed change are complete.

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

Joanne Moffic-Silver
Executive Vice President, General
Counsel, and Corporate Secretary
(312) 786-7462

Chris Solgan
Assistant General Counsel
(646) 856-8723

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

(a) Purpose

An MDO is a limit order to buy that is pegged to the National Best Bid ("NBB"), with discretion to execute at prices up to and including the midpoint of the National Best Bid and Offer ("NBBO"), or a limit order to sell that is pegged to the National Best Offer ("NBO"), with discretion to execute at prices down to and including the midpoint of the NBBO.⁴ MDOs are designed to exercise discretion to execute to the midpoint of the NBBO and provide price improvement over the NBBO.

Currently, Rule 11.8(e) describes the operation of an MDO and states that an MDO in a stock priced at \$1.00 or more can only be executed in sub-penny increments when it executes (i) at the midpoint of the NBBO against contra side MidPoint Peg Orders⁵ or (ii) against other MDOs. The Exchange included this provision within Rule 11.8(e) as part of a proposed rule change to provide additional specificity regarding the

⁴ See Exchange Rule 11.8(e) for a complete description of the operation of MDOs.

⁵ See Exchange rule 11.8(d) (describing MidPoint Peg Orders).

current functionality of the Exchange's System,⁶ including the operation of its order types and order instructions.⁷ Over time, this provision has become too restrictive and inadvertently excluded scenarios where an MDO may execute at a sub-penny price. Although accurate at the time it was adopted, because such contra-side orders (MidPoint Peg Orders and MDOs) were the only orders eligible to execute at the sub-penny midpoint of the NBBO, an MDO will trade at a sub-penny midpoint against all orders eligible to execute at the midpoint of the NBBO.⁸ MDOs will also currently trade at sub-penny prices in other scenarios. The Exchange, therefore, proposes to revise this provision in Rule 11.8(e) to clarify that MDOs in a stock priced at \$1.00 or more can only be executed in sub-penny increments when it executes at the midpoint of the NBBO or against a contra-side order pursuant to Exchange Rule 11.10(a)(4)(D) (described below), regardless of the type of contra-side order, which would update the rule to reflect current system functionality.

Rule 612 of Regulation NMS⁹ (the "Sub-Penny Rule") prohibits a national securities exchange, national securities association, alternative trading system ("ATS"), vendor, or broker-dealer from displaying, ranking, or accepting a bid or offer, an order, quotation, or indication of interest in any NMS stock that is priced in an increment

⁶ Exchange Rule 1.5(cc) defines "System" as "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away."

⁷ See Securities Exchange Act Release No. 73592 (November 13, 2014), 79 FR 68937 (November 19, 2014) (order approving SR-EDGA-2014-20).

⁸ See e.g., NYSE Arca, Inc. ("NYSE Arca") Rule 7.31-E(d)(3)(C) (stating that a Mid-Point Liquidity Order "to buy (sell) will trade at the midpoint of the PBBO against all incoming orders to sell (buy) priced at or below (above) the midpoint of the PBBO").

⁹ 17 CFR 242.612.

smaller than \$0.01 per share, unless the price of the bid or offer, order, or indication of interest is priced less than \$1.00 per share. The Sub-Penny Rule, however, does not prohibit sub-penny executions at the midpoint of the NBBO so long as the execution does not result from an impermissible sub-penny order or quotation.¹⁰ Pursuant to the Sub-Penny Rule, an MDO to buy (sell) will trade at a sub-penny midpoint of the NBBO not only against contra-side MDOs and MidPoint Peg Orders, but also against other contra-side orders eligible to execute at the midpoint of the NBBO. The Sub-Penny Rule also does not prohibit sub-penny price improvement, compared to the NBBO, so long as the order was not priced in an impermissible sub-penny increment.¹¹ For instance, Exchange Rule 11.10(a)(4)(D) governs the price at which an order is executable when it is posted non-displayed on the Exchange and there is a contra-side displayed order at the same price, creating an internally locked book. Specifically, for bids or offers equal to or greater than \$1.00 per share, in the event that an incoming order on the same side of the market as the displayed order on the Exchange is priced more aggressively than that displayed order, the Exchange will execute the incoming order against the resting non-displayed order at, in the case of an incoming sell order, one-half minimum price variation less than the price of the displayed order, and, in the case of an incoming buy order, at one-half minimum price variation more than the price of the displayed order. For example, assume the NBBO was \$16.10 by \$16.11 resulting in a sub-penny midpoint

¹⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37556 (June 29, 2005).

¹¹ See Question 13, Division of Market Regulation: Responses to Frequently Asked Questions Concerning Rule 612 (Minimum Pricing Increment) of Regulation NMS, available at <https://www.sec.gov/divisions/marketreg/subpenny612faq.htm#q13>.

of \$16.105. An order to buy at \$16.11 is resting non-displayed on the EDGA Book. A Limit Order to sell at \$16.11 with a Post Only instruction is subsequently entered.

Assume that the order to sell with a Post Only instruction would not remove any liquidity upon entry pursuant to the Exchange's economic best interest functionality, and would post to the EDGA Book and be displayed at \$16.11. The display of this order would, in turn, make the resting non-displayed bid not executable at \$16.11. If an incoming MDO to sell at \$16.10 is entered into the EDGA Book, the resting non-displayed bid originally priced at \$16.11 will execute against the incoming MDO at \$16.105 per share, thus providing a half-penny of price improvement as compared to the order's limit price of \$16.11.

Also consider the following example where the execution occurs at a sub-penny price that is not at the midpoint of the NBBO. Assume the NBBO is \$16.08 by \$16.10 resulting in a midpoint of \$16.09. An order to sell at \$16.08 is resting non-displayed on the EDGA Book. A Limit Order to buy at \$16.08 with a Post Only instruction is subsequently entered. Assume that the order to buy with a Post Only instruction would not remove any liquidity upon entry pursuant to the Exchange's economic best interest functionality, and would post to the EDGA Book and be displayed at \$16.08. The display of this order would, in turn, make the resting non-displayed offer not executable at \$16.08. If an incoming MDO to buy is entered into the EDGA Book, the resting non-displayed sell originally priced at \$16.08 will execute against the incoming MDO at \$16.085 per share, thus providing a half-penny of price improvement as compared to the order's limit price of \$16.08.

These scenarios were historically unavailable on the Exchange prior to the merger of the Exchange's former parent company, Direct Edge Holdings LLC, with Bats Global Markets, Inc.¹² Therefore, the Exchange proposes to amend Rule 11.8(e) to clarify that a MDO's ability to execute at sub-penny midpoint prices is not limited to contra-side orders that are MDOs or MidPoint Peg Orders and that a sub-penny execution may also occur against a contra-side order pursuant to Exchange Rule 11.10(a)(4)(D). The Exchange does not propose any additional changes to the operation of MDOs as described in Rule 11.8(e).

(b) Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁴ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. As stated above, the Exchange included this provision within Rule 11.8(e) as part of a proposed rule change to provide additional specificity regarding the current functionality of the Exchange's System, including the operation of its order types and order instructions.¹⁵ Over time, this provision has become too restrictive and

¹² See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGX-2013-43; SR-EDGA-2013-34).

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ See supra note 7.

inadvertently excludes scenarios where an MDO may execute at a sub-penny price in accordance with the Sub-Penny Rule. The Exchange does not propose to amend or alter the operation of MDOs. Therefore, the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system by further aligning the rule with current system functionality.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change does not propose any new functionality and simply updates the rule to reflect current system functionality.

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

No comments were solicited or received on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)¹⁶ of the Act and Rule 19b-4(f)(6)¹⁷ thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for thirty (30) days after the date of the filing, or such shorter time as

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6).

the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.¹⁸

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4¹⁹ because it would not significantly affect the protection of investors or the public interest. The proposed rule change does not significantly affect the protection of investors or the public interest because it simply further aligns the rule with current system functionality. The Exchange does not propose to amend or alter the operation of MDOs. In addition, the proposed rule change does not impose any significant burden on competition for the reasons set forth under Section IV above. The Exchange has accordingly designated this rule filing as “non-controversial” under Section 19(b)(3)(A) of the Act²⁰ and paragraph (f)(6) of Rule 19b-4 thereunder.²¹

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. Waiver of the 30-day operative delay would permit the Exchange to implement the proposed rule change immediately. Waiver of the operative delay is consistent with the protection of investors and the public interest because it will enable the Exchange to immediately align the rule with current system functionality. Waiver of

¹⁸ Id.

¹⁹ Id.

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 17 C.F.R. 240.19b-4.

the operative delay is, therefore, consistent with the protection of investors and the public interest.

At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily 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.

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

No applicable.

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 Federal Register.

Exhibit 5 – Text of the Proposed Rule Change

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BatsEDGA-2017-29)

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 11.8, Order Types, Clarifying When a MidPoint Discretionary Order May Execute at Sub-Penny Prices

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 _____, Cboe EDGA Exchange, Inc. (“EDGA” or the “Exchange”) (formerly known as Bats EDGA Exchange, Inc.) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ which renders it effective upon filing with the Commission. 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 filed a proposal to amend paragraph (e) of Exchange Rule 11.8, Order Types, to clarify when a MidPoint Discretionary Orders (“MDO”) may execute at sub-penny prices.

The text of the proposed rule change is available at the Exchange’s website at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

www.markets.cboe.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

An MDO is a limit order to buy that is pegged to the National Best Bid ("NBB"), with discretion to execute at prices up to and including the midpoint of the National Best Bid and Offer ("NBBO"), or a limit order to sell that is pegged to the National Best Offer ("NBO"), with discretion to execute at prices down to and including the midpoint of the NBBO.⁵ MDOs are designed to exercise discretion to execute to the midpoint of the NBBO and provide price improvement over the NBBO.

Currently, Rule 11.8(e) describes the operation of an MDO and states that an MDO in a stock priced at \$1.00 or more can only be executed in sub-penny increments when it executes (i) at the midpoint of the NBBO against contra side MidPoint Peg Orders⁶ or (ii) against other MDOs. The Exchange included this provision within Rule

⁵ See Exchange Rule 11.8(e) for a complete description of the operation of MDOs.

⁶ See Exchange rule 11.8(d) (describing MidPoint Peg Orders).

11.8(e) as part of a proposed rule change to provide additional specificity regarding the current functionality of the Exchange's System,⁷ including the operation of its order types and order instructions.⁸ Over time, this provision has become too restrictive and inadvertently excluded scenarios where an MDO may execute at a sub-penny price. Although accurate at the time it was adopted, because such contra-side orders (MidPoint Peg Orders and MDOs) were the only orders eligible to execute at the sub-penny midpoint of the NBBO, an MDO will trade at a sub-penny midpoint against all orders eligible to execute at the midpoint of the NBBO.⁹ MDOs will also currently trade at sub-penny prices in other scenarios. The Exchange, therefore, proposes to revise this provision in Rule 11.8(e) to clarify that MDOs in a stock priced at \$1.00 or more can only be executed in sub-penny increments when it executes at the midpoint of the NBBO or against a contra-side order pursuant to Exchange Rule 11.10(a)(4)(D) (described below), regardless of the type of contra-side order, which would update the rule to reflect current system functionality.

Rule 612 of Regulation NMS¹⁰ (the "Sub-Penny Rule") prohibits a national securities exchange, national securities association, alternative trading system ("ATS"),

⁷ Exchange Rule 1.5(cc) defines "System" as "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away."

⁸ See Securities Exchange Act Release No. 73592 (November 13, 2014), 79 FR 68937 (November 19, 2014) (order approving SR-EDGA-2014-20).

⁹ See e.g., NYSE Arca, Inc. ("NYSE Arca") Rule 7.31-E(d)(3)(C) (stating that a Mid-Point Liquidity Order "to buy (sell) will trade at the midpoint of the PBBO against all incoming orders to sell (buy) priced at or below (above) the midpoint of the PBBO").

¹⁰ 17 CFR 242.612.

vendor, or broker-dealer from displaying, ranking, or accepting a bid or offer, an order, quotation, or indication of interest in any NMS stock that is priced in an increment smaller than \$0.01 per share, unless the price of the bid or offer, order, or indication of interest is priced less than \$1.00 per share. The Sub-Penny Rule, however, does not prohibit sub-penny executions at the midpoint of the NBBO so long as the execution does not result from an impermissible sub-penny order or quotation.¹¹ Pursuant to the Sub-Penny Rule, an MDO to buy (sell) will trade at a sub-penny midpoint of the NBBO not only against contra-side MDOs and MidPoint Peg Orders, but also against other contra-side orders eligible to execute at the midpoint of the NBBO. The Sub-Penny Rule also does not prohibit sub-penny price improvement, compared to the NBBO, so long as the order was not priced in an impermissible sub-penny increment.¹² For instance, Exchange Rule 11.10(a)(4)(D) governs the price at which an order is executable when it is posted non-displayed on the Exchange and there is a contra-side displayed order at the same price, creating an internally locked book. Specifically, for bids or offers equal to or greater than \$1.00 per share, in the event that an incoming order on the same side of the market as the displayed order on the Exchange is priced more aggressively than that displayed order, the Exchange will execute the incoming order against the resting non-displayed order at, in the case of an incoming sell order, one-half minimum price variation less than the price of the displayed order, and, in the case of an incoming buy

¹¹ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37556 (June 29, 2005).

¹² See Question 13, Division of Market Regulation: Responses to Frequently Asked Questions Concerning Rule 612 (Minimum Pricing Increment) of Regulation NMS, available at <https://www.sec.gov/divisions/marketreg/subpenny612faq.htm#q13>.

order, at one-half minimum price variation more than the price of the displayed order.

For example, assume the NBBO was \$16.10 by \$16.11 resulting in a sub-penny midpoint of \$16.105. An order to buy at \$16.11 is resting non-displayed on the EDGA Book. A Limit Order to sell at \$16.11 with a Post Only instruction is subsequently entered.

Assume that the order to sell with a Post Only instruction would not remove any liquidity upon entry pursuant to the Exchange's economic best interest functionality, and would post to the EDGA Book and be displayed at \$16.11. The display of this order would, in turn, make the resting non-displayed bid not executable at \$16.11. If an incoming MDO to sell at \$16.10 is entered into the EDGA Book, the resting non-displayed bid originally priced at \$16.11 will execute against the incoming MDO at \$16.105 per share, thus providing a half-penny of price improvement as compared to the order's limit price of \$16.11.

Also consider the following example where the execution occurs at a sub-penny price that is not at the midpoint of the NBBO. Assume the NBBO is \$16.08 by \$16.10 resulting in a midpoint of \$16.09. An order to sell at \$16.08 is resting non-displayed on the EDGA Book. A Limit Order to buy at \$16.08 with a Post Only instruction is subsequently entered. Assume that the order to buy with a Post Only instruction would not remove any liquidity upon entry pursuant to the Exchange's economic best interest functionality, and would post to the EDGA Book and be displayed at \$16.08. The display of this order would, in turn, make the resting non-displayed offer not executable at \$16.08. If an incoming MDO to buy is entered into the EDGA Book, the resting non-displayed sell originally priced at \$16.08 will execute against the incoming MDO at

\$16.085 per share, thus providing a half-penny of price improvement as compared to the order's limit price of \$16.08.

These scenarios were historically unavailable on the Exchange prior to the merger of the Exchange's former parent company, Direct Edge Holdings LLC, with Bats Global Markets, Inc.¹³ Therefore, the Exchange proposes to amend Rule 11.8(e) to clarify that a MDO's ability to execute at sub-penny midpoint prices is not limited to contra-side orders that are MDOs or MidPoint Peg Orders and that a sub-penny execution may also occur against a contra-side order pursuant to Exchange Rule 11.10(a)(4)(D). The Exchange does not propose any additional changes to the operation of MDOs as described in Rule 11.8(e).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁵ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. As stated above, the Exchange included this provision within Rule 11.8(e) as part of a proposed rule change to provide additional specificity regarding the current functionality of the Exchange's System, including the operation of its order types and

¹³ See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGX-2013-43; SR-EDGA-2013-34).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

order instructions.¹⁶ Over time, this provision has become too restrictive and inadvertently excludes scenarios where an MDO may execute at a sub-penny price in accordance with the Sub-Penny Rule. The Exchange does not propose to amend or alter the operation of MDOs. Therefore, the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system by further aligning the rule with current system functionality.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change does not propose any new functionality and simply updates the rule to reflect current system functionality.

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

No comments were solicited or received on the proposed rule change.

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

Because the foregoing proposed rule change does not: (A) significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f)(6) of Rule 19b-4

¹⁶ See supra note 8.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

thereunder,¹⁸ the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-BatsEDGA-2017-29 on the subject line.

Paper Comments:

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

¹⁸ 17 CFR 240.19b-4.

All submissions should refer to File No. SR-BatsEDGA-2017-29. 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 am and 3:00 pm. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BatsEDGA-2017-29 and should be submitted on or before [_____]21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Robert W. Errett
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

Rules of Cboe EDGA Exchange, Inc.

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CHAPTER XI. TRADING RULES

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Rule 11.8. Order Types

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(a) – (d) (No change).

(e) MidPoint Discretionary Order (“MDO”). A limit order to buy that is pegged to the NBB, with discretion to execute at prices up to and including the midpoint of the NBBO, or a limit order to sell that is pegged to the NBO, with discretion to execute at prices down to and including the midpoint of the NBBO. An MDO’s pegged price and Discretionary Range are bound by its limit price. An MDO to buy or sell with a limit price that is less than the prevailing NBB or higher than the prevailing NBO, respectively, is posted to the EDGA Book at its limit price. The pegged prices of an MDO are derived from the NBB or NBO, and cannot independently establish or maintain the NBB or NBO. An MDO in a stock priced at \$1.00 or more can only be executed in sub-penny increments when it executes [(i)]at the midpoint of the NBBO or against a contra-side order pursuant to Rule 11.10(a)(4)(D)[against contra side MidPoint Peg Orders or (ii) against other MDOs]. Notwithstanding that an MDO Order may be a Limit Order, its operation and available modifiers are limited to this Rule 11.8(e).

(1) – (8) (No change).

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