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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67819; File No. SR-EDGA-2012-40)

September 10, 2012

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"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 31, 2012 the EDGA Exchange, Inc. (the "Exchange" or the "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 fees and rebates applicable to Members³ of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet website at <http://www.directedge.com>, at the Exchange's principal office, and at the Public Reference Room of the Commission.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ As defined in Exchange Rule 1.5(n).

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 discontinue the Message Efficiency Incentive Program (the "MEIP")⁴ and to delete the reference to the MEIP in Footnote c, which is appended to the rebate for adding liquidity in securities at or above \$1.00 on the Exchange's fee schedule. Under the MEIP, Members received standard rebates and tier rebates as provided on the Exchange's fee schedule based upon the Member's average inbound message-to-trade ratio for that month being equal to or less than 100:1. Members could receive the maximum rebate of \$0.0003 per share if their average inbound message-to-trade ratio, measured monthly, was equal to or less than 100:1, subject to applicable rebate tiers.⁵ Where a Member exceeded the 100:1 message-to-trade ratio, measured monthly, the Exchange reduced its rebates by \$0.0001 per share, without regard to the rebate tier for which the Member qualified that month. In addition, under the MEIP, the following Members were exempt from earning the rebate: (i) all Members that sent less than 1,000,000 messages per day to the Exchange; and (ii) registered Market Makers provided that they were registered in at least 100 securities on the Exchange over the course of a month and met their continuous, two-sided quoting obligations under Exchange Rule 11.21(d) on at least ten

⁴ See Securities Exchange Act Release No. 67160 (June 7, 2012), 77 FR 35450 (June 13, 2012) (SR-EDGA-2012-19) (where the Exchange introduced the MEIP).

⁵ The Commission notes that the Exchange filed a proposed rule change to modify the maximum rebate of \$0.0003 per share as of September 1, 2012. See SR-EDGA-2012-39.

(10) consecutive trading days in the month. The Exchange proposes to discontinue the \$0.0001 per share reduction in standard rebates and tier rebates that the Exchange applied to Members that exceeded an average inbound message-to-trade ratio of 100:1, measured monthly.

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

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁶ in general, and furthers the objectives of Section 6(b)(4)⁷ 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.

In its original filing introducing the MEIP, the Exchange stated that it was establishing the MEIP in order to promote a more efficient marketplace, to encourage liquidity provision and to enhance the trading experience of Members on an ongoing basis.⁸ Having implemented the MEIP for the period since its launch, the Exchange has not seen these benefits, and thus believes that discontinuation of the MEIP is appropriate at this time. Specifically, the Exchange believes that, by not adequately isolating purely inefficient message flow, the MEIP may have unintentionally captured, and therefore disincentivized, order behavior that benefits market liquidity. For example, the MEIP potentially discourages market participants from posting multiple levels of liquidity in less actively traded securities. Thus, while the Exchange's

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

⁸ See Securities Exchange Act Release No. 67160 (June 7, 2012), 77 FR 35450 (June 13, 2012) (SR-EDGA-2012-19).

intention was to encourage efficiency and consequently attract more liquidity, the MEIP appears to have resulted in the opposite effect.

The Exchange believes its proposal to discontinue the MEIP is equitable because it allows Members the freedom to manage their order and message flow consistently with their business models. In addition, the Exchange believes its proposal is reasonable because other exchanges, *e.g.*, BATS Exchange, Inc., maintain pricing models that are designed to incentivize customers to increase liquidity, without any restriction on order activity that applied under the MEIP. By discontinuing the MEIP, the Exchange believes that it will remain competitive with other exchanges that do not offer reductions in standard rebates and/or tier rebates based on customers' message efficiency. The Exchange believes that the proposal is equitable and non-discriminatory in that it applies uniformly to all Members.

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to encourage market participants to direct their order flow to the Exchange, or at least not to discourage the direction of order flow to the Exchange. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

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

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

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act⁹ and Rule 19b-4(f)(2)¹⁰ thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-EDGA-2012-40 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.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-EDGA-2012-40. 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-EDGA-2012-40 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.¹¹

Kevin M. O'Neill
Deputy Secretary

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¹¹ 17 CFR 200.30-3(a)(12).