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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76602; File No. SR-EDGA-2015-44]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of EDGA Exchange, Inc.

December 9, 2015

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 December 1, 2015, 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 Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change 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

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

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

The Exchange filed a proposal to amend its fees and rebates applicable to Members<sup>5</sup> of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (“Fee Schedule”) to increase the fee for orders yielding fee code K, which routes to NASDAQ OMX PSX (“PSX”) using ROUC or ROUE routing strategy.

The text of the proposed rule change is available at the Exchange’s website at [www.batstrading.com](http://www.batstrading.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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to increase the fee for orders yielding fee code K, which routes to PSX using ROUC or ROUE routing strategy. In securities priced at or above \$1.00, the

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<sup>5</sup> The term “Member” is defined as “any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a “member” of the Exchange as that term is defined in Section 3(a)(3) of the Act.” See Exchange Rule 1.5(n).

Exchange currently assesses a fee of \$0.0028 per share for Members' orders that yield fee code K. The Exchange proposes to amend its Fee Schedule to increase this fee to \$0.0029 per share. The proposed change would enable the Exchange to pass through the rate that BATS Trading, Inc. ("BATS Trading"), the Exchange's affiliated routing broker-dealer, is charged for routing orders to PSX when it does not qualify for a volume tiered reduced fee. The proposed change is in response to PSX's December 2015 fee change where PSX increased the fee to remove liquidity via routable order types it charges its customers, from a fee of \$0.0027 per share to a fee of \$0.0028 per share for Tapes A and B securities and from a fee of \$0.0028 per share to \$0.0029 per share for Tape C securities.<sup>6</sup> When BATS Trading routes to PSX, it will now be charged a standard rate of \$0.0028 per share for Tapes A and B securities and \$0.0029 per share for Tape C securities.<sup>7</sup> BATS Trading will pass through this rate to the Exchange and the Exchange, in turn, will pass through of a rate of \$0.0029 per share for Tape A, B, and C securities to its Members.<sup>8</sup> The proposed increase to the fee under fee code K would enable the Exchange to equitably allocate its costs among all Members utilizing fee code K. The Exchange proposes to implement this amendment to its Fee Schedule immediately.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>10</sup> in particular, as

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<sup>6</sup> See Equity Trader Alert 2015-189, available at <http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA-2015-189>.

<sup>7</sup> The Exchange notes that to the extent BATS Trading does or does not achieve any volume tiered reduced fee on PSX, its rate for fee code K will not change.

<sup>8</sup> The Exchange notes that, due to billing system limitations that do not allow for separate rates by tape, it will pass through the higher fee of \$0.0029 per share for all Tapes A, B & C securities.

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

it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that its proposal to increase the fee for Members' orders that yield fee code K represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to PSX through BATS Trading. As of December 1, 2015, PSX increased the fee to remove liquidity from a fee of \$0.0027 per share to a fee of \$0.0028 per share for Tapes A and B securities and from a fee of \$0.0028 per share to \$0.0029 per share for Tape C securities.<sup>11</sup> Therefore, the Exchange believes that its proposal to pass through a fee of \$0.0029 per share for orders that yield fee code K is equitable and reasonable because it accounts for the pricing changes on PSX. In addition, the proposal allows the Exchange to now charge its Members a pass-through rate for orders that are routed to PSX. Furthermore, the Exchange notes that routing through BATS Trading is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all 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. The Exchange does not believe that this change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange'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

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

<sup>11</sup> See supra note 4.

Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange believes that its proposal to pass through a fee of \$0.0029 per share for Members' orders that yield fee code K would increase intermarket competition because it offers customers an alternative means to route to PSX. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

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

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

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

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGA-2015-44 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.

All submissions should refer to File Number SR-EDGA-2015-44. 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-2015-44, 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>14</sup>

Robert W. Errett

Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).



