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 email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2012–18 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–NYSE–2012–18. This file number should be included on the subject line if email 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 Web site (*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 Web site 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 a.m. and 3 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–NYSE–2012–18 and should be submitted on or before July 23, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–16132 Filed 6–29–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67264; File No. SR–NYSEArca-2012–63]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule To Provide for Additional Co-Location Services and Establish Related Fees

June 26, 2012.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 13, 2012, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "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 provide for additional co-location services and establish related fees. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.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 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 those 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 amend its Fee Schedule to provide for additional co-location services and establish related fees.[4]

Cabinet Cross Connects

A User that has more than one cabinet within the data center is currently able to purchase one or more fiber cross connects between its cabinets. Currently, a $500 initial fee and a $500 monthly fee are charged per cross connect. The Exchange proposes that each User be permitted to purchase cross connects between its own cabinets, as is currently permitted, as well as between its cabinet(s) and the cabinets of separate Users within the data center.[5] A cross connect would be used to connect cabinets of separate Users when, for example, a User receives technical support, order routing and/or market data delivery services from another User in the data center.

Cross connects may be bundled (i.e., multiple cross connects within a single sheath) such that a single sheath can hold either one cross connect or several cross connects in multiples of six (e.g., six or 12 cross connects). The Exchange is proposing fees for bundled cross

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[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100). (the "Original Co-location Notice"). *See also* Securities Exchange Act Release No. 65971; (December 15, 2011), 76 FR 79267 (December 21, 2011) (SR–NYSEArca–2011–75). The Exchange operates a data center in Mahwah, New Jersey ("data center") from which it provides co-location services to Users. The Exchange's co-location services allow Users to rent space in the data center in order that they may locate their electronic servers in close physical proximity to the Exchange's trading and execution system. *See* Original Co-location Notice at 70049. For purposes of its co-location services, the term "User" includes (i) OTP Holders, OTP Firms and Sponsored Participants that are authorized to obtain access to the NYSE Arca System pursuant to Rule 6.2A (*see* Rule 6.1A(a)(19)) and (ii) non-OTP Holder and non-OTP Firm broker-dealers and vendors that request to receive co-location services directly from the Exchange.

[5] The Exchange notes that fees for a cross connect would be the same, regardless of whether the cross connect is between the cabinets of a single User or between the cabinets of separate Users within the data center. The Exchange further notes that only the User requesting the cross connect would be charged the related initial and monthly fees; the other User would simply be required to give permission for the cross connection. This proposed change would require that the existing cross connect fee in the Fee Schedule be amended to reflect that it is no longer applicable only to cross connects between a single User's cabinets.

connects[6] that correspond to the number of cross connects in the bundle, as follows:[7]

6 Cross Connects	$500 initial charge plus $1,500 monthly charge.
12 Cross Connects	$500 initial charge plus $2,500 monthly charge.
18 Cross Connects	$500 initial charge plus $3,200 monthly charge.
24 Cross Connects	$500 initial charge plus $3,900 monthly charge.

The Exchange's initial cost for installing bundled cross connects is generally consistent with the cost of installing a single cross connect. The Exchange therefore proposes that the same $500 initial fee apply to install bundled cross connects as is currently applicable to a single cross connect. However, the Exchange's cost for ongoing maintenance of cross connects decreases on a per cross connect basis as the number of cross connects within a sheath increases. Accordingly, the monthly fees proposed for bundled cross connects would likewise decrease on a per cross connect basis as the number of cross connects within a sheath increases, as reflected in the amended Fee Schedule.[8]

10 Gb LCN Connections

Users are currently able to purchase access to the Exchange's Liquidity Center Network (''LCN''), a local area network that is available in the data center. LCN access is available in either one or 10 gigabit (''Gb'') capacities, for which Users incur an initial and monthly fee per connection. The Exchange proposes that a User that purchases five 10 Gb LCN connections would only be charged the initial fee for a sixth 10 Gb LCN connection and would not be charged the monthly fee that would otherwise be applicable.[9] This would apply to a User that purchases six 10 Gb LCN connections at one time as well as to a User that purchases six 10 Gb LCN connections at separate times.[10]

LCN CSP Connections

A User is currently able to act as a content service provider (a ''CSP'' User) and deliver services to another User in the data center (a ''Subscribing'' User). These services could include, for example, order routing/brokerage services and/or market data delivery services. Many of these services can be provided via direct cross connect between the User providing a service and the User receiving it. However, using direct cross connects would require the User providing the service to have a direct cross connect with each User receiving it and would require the User providing the service to send the same data multiple times, i.e., once per receiving User.

LCN CSP connections address this issue by allowing the CSP User to send data to, and communicate with, all the properly authorized Subscribing Users at once, via a specific, dedicated LCN connection (an ''LCN CSP'' connection);[11] the Subscribing User must also have an LCN connection in order to communicate with the LCN CSP.[12] The LCN CSP connection used by the CSP User may only be used for providing services to, and communicating with, Subscribing Users and is separate and distinct from any LCN connection used by the CSP User to access the Exchange.[13] Conversely, the Subscribing User receives the services via its standard LCN connection[14] and is charged an initial and monthly fee that reflects the benefit of receiving services from the CSP User in the data center in this manner. Accordingly, the Exchange proposes the following fees for LCN CSP connections and Subscribing Users:[15]

LCN CSP Access	1 Gb Circuit	$6,000 per connection initial charge plus $500 monthly per connection.
LCN CSP Access	10 Gb Circuit	$10,000 per connection initial charge plus $5,000 monthly per connection.
CSP Subscriber		$950 per LCN CSP initial charge plus $300 monthly per LCN CSP.

[6] All multiple cross connects within the bundle would be installed at once and only in multiples of six, regardless of the number of cross connects the User utilizes. This proposed change would require that the existing cross connect fee in the Fee Schedule be amended to reflect that it is applicable only for a single cross connect (i.e., not for bundled cross connects). A User could still elect to purchase individual cross connects, but once the User anticipates utilizing four cross connects, it would be more economical to purchase a bundle of six (with two unused) for a $500 initial charge plus a $1,500 monthly charge, which would be less than the $500 initial charge and $2,000 monthly charge for purchasing four cross connects individually. The additional unused cross connects in the bundle would not result in any additional internal costs or Exchange fees for the User.

[7] The Exchange has made bundled cross connects available for a User to connect its cabinets within the data center beginning with the availability of co-location services in the data center in September 2010. In certain circumstances, the Exchange charged certain Users that purchased bundled cross connects a monthly per cross connect fee that was equal to the monthly fees proposed herein and therefore less than the $500 fee per cross connect that is currently reflected within the Fee Schedule. The Exchange has granted credits to the other Users that purchased bundled cross connects such that all Users have been charged the monthly fees proposed herein.

[8] For example, a single cross connect currently has a corresponding monthly fee of $500. However, as proposed, a bundle of 6 cross connects would have a monthly fee of $1,500 ($250 monthly fee per cross connect), a bundle of 12 cross connects would have a monthly fee of $2,500 ($208 monthly fee per cross connect), a bundle of 18 cross connects would have a monthly fee of $3,200 ($178 monthly fee per cross connect), and a bundle of 24 cross connects would have a monthly fee of $3,900 ($162 monthly fee per cross connect). Because the cross connects are bundled, the proposed change would not apply to incremental cross connects.

[9] Beginning with the availability of co-location services in the data center in September 2010, the Exchange charged certain Users that purchased a sixth LCN connection as proposed herein, i.e., the Exchange charged the initial fee but not the monthly fee. The Exchange has granted credits to those other Users that purchased a sixth LCN connection and were charged the monthly fee for such connection.

[10] A User would be charged an initial and monthly fee according to the Fee Schedule for any additional 10 Gb LCN connections it purchases (e.g., a seventh or eighth 10 Gb LCN connection). Additionally, a User that cancels a 10 Gb LCN connection, such that the User is no longer paying for at least five 10 Gb LCN connections, would thereafter be charged the monthly fee for what had been its free sixth 10 Gb LCN connection.

[11] A single LCN CSP connection may be used to provide services to more than one Subscribing User. A CSP User's LCN CSP connection may be used to receive data or communications from a Subscribing User.

[12] The Subscribing User's LCN connection is the standard LCN connection that is described in the preceding section.

[13] Thus, in order to access the Exchange, the CSP User is required to maintain an existing standard LCN connection. As above, the current fees in the Fee Schedule are applicable to such connection, e.g., a $10,000 initial fee and $12,000 monthly fee for a 10 Gb LCN connection.

[14] The current fees in the Fee Schedule are applicable, e.g., a $10,000 initial fee and $12,000 monthly fee for a 10 Gb LCN connection. If the Subscribing User does not have an existing LCN connection, it is required to purchase one in order to receive services from a CSP User over the LCN.

[15] The Exchange has made LCN CSP connections available to Users beginning with the availability of co-location services in the data center in September 2010. During this time, three Users have purchased LCN CSP connections and have been charged the related LCN CSP fee proposed herein. Also, one User has become a Subscribing User and has been charged the CSP subscriber fee proposed herein.

The Exchange notes that the proposed initial fee for an LCN CSP connection is the same as the existing fee for a standard LCN connection, both for the 1 Gb and 10 Gb capacities. This is because an LCN CSP connection is physically the same as a standard LCN connection. However, the proposed monthly fee for an LCN CSP connection is less than the existing monthly fee for a standard LCN connection, both for the 1 Gb and 10 Gb capacities. This is because an LCN CSP connection is functionally limited as compared to a standard LCN connection—as noted above, an LCN CSP connection may only be used for providing services to Subscribing Users and may not be used for accessing the Exchange or for other purposes.

Cages

A User is currently able to purchase a cage to house its cabinets within the data center.[16] A cage would typically be purchased by a User that has several cabinets within the data center and that wishes to enhance privacy around its cabinets, e.g., so that other Users cannot see what type of hardware is being utilized. The Exchange charges fees for cages based on the size of the cage, which directly corresponds to the number of cabinets housed therein. The Exchange is proposing the following fees for cages:[17]

1–14 Cabinets	$5,000 initial charge plus $2,700 monthly charge.
15–28 Cabinets	$10,000 initial charge plus $4,100 monthly charge.
29+ Cabinets	$15,000 initial charge plus $5,500 monthly charge.

The Exchange's initial cost to construct a cage is directly related to the size of the cage, which is determined by the number of the User's cabinets that are to be housed therein. The initial fees proposed for a cage would accordingly increase on a proportional basis as the number of cabinets housed in the cage increases, as reflected in the amended Fee Schedule.[18] The monthly fee would reflect the opportunity cost to the Exchange of giving up floor space in the data center for the cage's physical footprint and the value of such space to the User; such floor space otherwise could be utilized for additional cabinets for the same or other Users or other Exchange purposes. Accordingly, the monthly fees proposed for a cage would increase on a marginal basis as the number of cabinets housed in the cage increases, as reflected in the amended Fee Schedule.[19]

Change Fee

A User is currently able to arrange for the Exchange to reconfigure, modify, or otherwise change a co-location service that the Exchange has already established and completed for the User. In this regard, the Exchange notes that the Fee Schedule includes several co-location services for which an initial fee is applicable in addition to an ongoing monthly fee.[20] These initial fees are related to the Exchange's initial cost of establishing or installing the particular co-location service for the User. The Exchange proposes to charge a User a fee of $950 per order if the User requests a change to one or more existing co-location services that the Exchange has already established or completed for the User (''Change Fee'').[21] For example, the initial installation of an LCN connection would include establishing and configuring market data services requested by the User, which would be covered by the initial install fee. However, if a User requests that the Exchange establish and configure additional market data services for its LCN connection, the User would be charged a one-time Change Fee of $950 for that request. If a User orders two or more services at one time (for example, through submitting an order form requesting multiple services) the User would be charged a one-time Change Fee of $950, which would cover the multiple services.

Expedite Fee

A User is currently able to request that the Exchange expedite the completion of co-location services purchased or ordered by the User. The Exchange proposes to charge Users $4,000 for expedited completion of co-location services (''Expedite Fee'').[22] At the time that services are ordered, the Exchange informs the User of the expected completion date; if a User wishes to obtain the services on an expedited basis, the Exchange would inform the User of the earlier completion date that could be expected with payment of the Expedite Fee. The time saved would vary depending on the type(s) of service(s) being ordered, but the Expedite Fee would always be a flat $4,000, allowing the User to determine if the expected time savings warrants payment of the fee. The Expedite Fee relates to the Exchange's cost of expediting the services. For example, the expedited service may require that work be completed on the weekend or after normal business hours, thereby resulting in the Exchange providing overtime compensation to data center staff.[23]

Power Not Utilized Fee

A User is currently able to obtain space in the data center for future use of currently available, unused cabinet space in proximity to the User's existing cabinet space—i.e., space that the User does not anticipate using until some point in the future and therefore is reserved but not currently utilized. The applicable fee for this space in which power is not utilized (''PNU Fee'') was described within the Original Co-location Notice.[24] Such description provided that the PNU Fee would be 40% of the applicable monthly per kilowatt (''kW'') fee. The Exchange now

[16] The Exchange has made cages available to Users beginning with the availability of co-location services in the data center in September 2010.

[17] The Exchange currently charges cage fees to Users at the levels proposed herein.

[18] For example, a cage housing between one and 14 cabinets would have a corresponding initial fee of $5,000. However, a cage housing between 15 and 28 cabinets—as many as twice the number of cabinets—would have a corresponding initial fee of $10,000. Similarly, a cage housing 29 or more cabinets—possibly as many as three times the number of cabinets as the lowest tier—would have a corresponding initial fee of $15,000.

[19] For example, a cage housing between one and 14 cabinets would have a corresponding monthly fee of $2,700 ($193 per cabinet when housing 14 cabinets). However, a cage housing between 15 and 28 cabinets—as many as twice the number of cabinets—would have a corresponding monthly fee of $4,100 (an additional monthly cost that is slightly greater than 150% of the lowest tier and $146 per cabinet when housing 28 cabinets). Similarly, a cage housing 29 or more cabinets—which could be as many as three times the number of cabinets as the lowest tier—would have a corresponding monthly fee of $5,500 (an additional monthly cost that is slightly greater than 200% of the lowest tier and $131 per cabinet when housing, for example, 42 cabinets). As the cage size increases, its physical footprint on the data center floor correspondingly increases.

[20] For example, the initial 1 Gb LCN Access fee is $6,000 per connection and the ongoing monthly fee is $5,000.

[21] The Exchange has uniformly charged this $950 Change Fee to Users beginning with the availability of co-location services at the data center in September 2010.

[22] The Exchange has made the option of expedited services available to Users beginning with the availability of co-location services in the data center in September 2010. Three Users have requested expedited services and have been charged the $4,000 Expedite Fee, beginning in April 2011.

[23] Offering expedited services would not have any impact on the normal delivery time for all other pending co-location work orders. In other words, Users that do not elect to pay the Expedite Fee would not be disadvantaged by those who do. The Exchange does not guarantee that any work is completed by a specific date under either normal or expedited delivery time, but rather does all work on a best efforts basis.

[24] *See* Original Co-location Notice at 70049, note 7. Except for the PNU Fee, Users are not charged for PNU cabinets until power is activated, at which point the fees applicable to other cabinets are charged (i.e., the $5,000 initial fee per cabinet and the per kilowatt fee).

proposes to provide for the PNU Fee within the Fee Schedule as $360 per month, which is 40% of the lowest per kW monthly cabinet fee that is specified in the Fee Schedule.

General

As is the case with all Exchange co-location arrangements, neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a an OTP Holder, OTP Firm, a Sponsored Participant or an agent thereof (e.g., a service bureau providing order entry services). Additionally, as is the case with existing co-location services, use of the co-location services proposed herein would be completely voluntary and would be available to all Users on a non-discriminatory basis.[25]

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[26] in general, and furthers the objectives of Section 6(b)(4) of the Act,[27] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities.

The Exchange proposes to offer the additional services described herein as a convenience to Users, but in doing so will incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and ongoing monitoring, support and maintenance of such services. As with fees for existing co-location services, the fees proposed herein would be charged only to those Users that voluntarily select the related services, which would be available to all Users. Accordingly, the Exchange believes that the proposed change is equitable because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users.

The Exchange believes that the proposed fees are reasonable because, for example, where the Exchange anticipates incurring a lower marginal monthly cost per cross connect or with respect to cages, the Exchange has proposed to apply a corresponding lower marginal monthly fee. Additionally, the Exchange believes that the Change Fee is reasonable because it would permit the Exchange to offset the expense of completing changes to co-location services that the Exchange has previously already established/completed for a User. Furthermore, the Exchange believes that the Expedite Fee is reasonable because it would permit the Exchange to charge a User for the expedited completion of the delivery of a co-location service, which could require that the Exchange expend increased resources (e.g., overtime labor costs) above what would otherwise be required for non-expedited service. Users that do not elect expedited service would not be disadvantaged by the offering of that service as it would not affect normal delivery times for services. The Exchange also believes that the proposed change regarding the sixth 10 Gb LCN connection is reasonable because it would incentivize Users to request at least five connections. The Exchange understands that other exchanges and self-regulatory organizations charge their members for certain similar co-location services.[28] Additionally, the Exchange believes that the fees for LCN CSP Access and CSP Subscribing Users are reasonable because they directly relate to how Users are permitted to utilize these connections and the value to each party to get the benefit of this service in the data center without having to set up individual cross connections or experience the latency that could be present if the service were only offered outside the data center. The Exchange also believes that listing the PNU Fee within the Fee Schedule at $360 per month, rather than as a formula, will add clarity to the Fee Schedule.

The Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same range of products and services are available to all Users and there is no differentiation among Users with regard to the fees charged for a particular product, service, or piece of equipment). In this regard, the proposed change would not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

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

The Exchange does not believe that the proposed rule change will 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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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:

[25] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(4).

[28] For example, similar to cross connects between cabinets of different Users in the data center, NASDAQ Stock Market LLC (''NASDAQ'') Rule 7034 (Co-location Services) provides for ''External Telco/Inter-Cabinet Connectivity'' and includes charges corresponding thereto. *See* Securities Exchange Act Release No. 64060 (March 8, 2011), 76 FR 13686 (March 14, 2011) (SR–NASDAQ–2011–035). Additionally, similar to the proposed Expedite Fee, NASDAQ Rule 7034 provides for a ''Telco Connectivity Expedite Fee.'' *See* Securities Exchange Act Release No. 62397 (June 28, 2010), 75 FR 38860 (July 6, 2010) (SR–NASDAQ–2010–019). Also, similar to the proposed fees for cages, NASDAQ Rule 7034 provides for ''Cabinet Caging.'' *See* Securities Exchange Act Release No. 63189 (October 27, 2010), 75 FR 67414 (November 2, 2010) (SR–NASDAQ–2010–135). NASDAQ Rule 7034 also provides for discounts for NASDAQ's co-location customers that receive more than one unit of a particular service.

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca-2012–63 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 NYSEArca–2012–63. This file number should be included on the subject line if email 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 Web site (*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 Web site 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 a.m. and 3 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 NYSEArca–2012–63 and should be submitted on or before July 23, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–16134 Filed 6–29–12; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67266; File No. SR–EDGX–2012–21]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to New Market Access Risk Management Service, EdgeRisk Controls℠

June 26, 2012.

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 June 19, 2012, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') 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 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

EDGX Exchange, Inc. (''EDGX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to establish a new market access risk management service, called EdgeRisk Controls℠ (the ''Service'').

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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Background on Market Access Rule

On November 3, 2010, the Commission adopted Rule 15c3–5 under the Act. Rule 15c3–5, known as the ''Market Access Rule'', governs risk management controls by broker-dealers with market access. The Market Access Rule had an effective date of January 14, 2011, with phased-in compliance dates of July 14, 2011, and November 30, 2011.[3]

Among other things, the Market Access Rule requires that any broker-dealer with market access,[4] or that provides a customer or any other person with market access, must establish, document and maintain a system of risk management controls and supervisory procedures that are reasonably designed to manage the financial, regulatory and other risks of this business activity. These controls include financial risk management controls reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker-dealer itself, and to prevent the entry of erroneous orders. In addition, the Market Access Rule requires certain regulatory risk management controls that, among other things, prevent the entry of orders unless compliance with applicable regulatory requirements has been satisfied on a pre-order entry basis, and restrict access to trading systems and technology that provide market access to persons and accounts that have been pre-approved and authorized by the broker-dealer. These regulatory risk management controls also include measures designed to prevent the entry of orders for a broker-dealer, customer or other person if such person is restricted from trading those securities, and to assure that appropriate surveillance personnel receive immediate, post-trade execution reports that result from market access.

These risk management controls and associated supervisory procedures must be under the direct and exclusive control of the broker-dealer that is subject to the Market Access Rule. While a broker-dealer can use third-party providers to satisfy some or all of these requirements, the broker-dealer is nonetheless required to ensure that whatever technology or other services

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2011) [sic] (File No. S7–03–10). *See also* Securities Exchange Act Release No. 64798 [sic] (June 27, 2011), 76 FR 38293 (June 30, 2011) (File No. S7–03–10) (providing limited extension of compliance date for certain requirements); Securities Exchange Act Release No. 65132 (August 15, 2011), 76 FR 51457 (August 18, 2011) (exempting floor broker operations of certain broker-dealers with market access from automated controls requirement of Rule 15c3–5).

[4] The term ''market access'' is defined in Rule 15c3–5(a)(1) to include, *inter alia,* access to trading in securities on an exchange or alternative trading system (''ATS'') as a result of being a member or subscriber of the exchange or ATS, respectively.