SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67727; File No. SR–EDGX–2012–25]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Order Approving a Proposed Rule Change To Amend EDGX Rules To Add the Route Peg Order

August 24, 2012.

I. Introduction

On June 26, 2012, EDGX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 11.5 to provide an additional order type, the Route Peg Order. In addition, the Exchange proposed to amend Exchange Rule 11.8 to describe the priority of the Route Peg Order relative to other orders on the EDGX Book. The proposed rule change was published for comment in the **Federal Register** on July 5, 2012.[3] The Commission received no comment letters on the proposed rule change. On August 16, 2012, the Commission extended to October 3, 2012, the time period in which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposed to add a new order type, the Route Peg Order.[5] A Route Peg Order would be a non-displayed limit order eligible for execution at the national best bid (the ''NBB'') for Route Peg Orders to buy, and at the national best offer (the ''NBO'') [6] for Route Peg Orders to sell, against routeable orders that are equal to or less than the size of the Route Peg Order. The Route Peg Order would be a passive, resting order that could only provide liquidity. The Route Peg Order would not be permitted to take liquidity. Incoming orders that are designated as eligible for routing would be able to interact with Route Peg Orders. The incoming order would first be matched according to the price/time priority rules established by Exchange Rule 11.8(a)(2)(A)–(D). If any portion of the incoming order remained unexecuted only then would such order be eligible to execute against Route Peg Orders.[7] The Route Peg Order is intended to provide liquidity in the event that a marketable order would otherwise route to another destination. In addition, a Route Peg Order would only trade with orders that are equal to or smaller in quantity than the original order quantity of the Route Peg Order.[8] If a Route Peg Order were partially executed, it would be assigned a new time priority and new timestamp after each partial execution until either the remaining size is exhausted or the Route Peg Order is cancelled by the Member.[9]

Route Peg Orders would be able to be entered, cancelled and cancelled/replaced prior to and during Regular Trading Hours.[10] Route Peg Orders would be eligible for execution in a given security during Regular Trading Hours, except that, even after the commencement of Regular Trading Hours, Route Peg Orders would not be eligible for execution (1) in the opening cross, and (2) until such time that regular session orders in that security could be posted to the EDGX Book.[11] A Route Peg Order would not execute at a price that is inferior to a Protected Quotation,[12] and would not be permitted to execute if the NBBO were locked or crossed. Any and all remaining, unexecuted Route Peg Orders would be cancelled at the conclusion of Regular Trading Hours.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange notes that the Route Peg Order is designed to incentivize Users [15] to place greater liquidity at the NBBO, thereby promoting more favorable executions for the benefit of public customers. According to the Exchange, the Route Peg Order would result in more favourable and efficient executions by: (1) Offering liquidity providers a means to use the Exchange to post larger limit orders that are only executable at the NBBO and that do not disclose their trading interest to other market participants in advance of execution; (2) offering market participants seeking to access liquidity a greater expectation of market depth at the NBBO than may currently be the case; and (3) offering more predictable executions at the NBBO for Users by reducing the risk that incremental latency associated with routing an order to an away destination may result in an inferior execution.

Further, the Exchange believes that these benefits of the Route Peg Order would be realized only if they interact with orders that are eligible for routing, as they are characteristic of public customers who desire to execute at the best price. In contrast, notes the Exchange, professional traders typically

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67290 (June 28, 2012), 77 FR 39768 (''Notice'').

[4] *See* Securities Exchange Act Release No. 67676 (August 16, 2012), 77 FR 50740 (August 22, 2012).

[5] The Exchange proposed to amend Exchange Rule 11.5(c) to add a new subparagraph (17) describing the Route Peg Order. *See* Notice, *supra* note 3 at 39769.

[6] Together, the NBO and NBB are referred to as the ''NBBO.''

[7] The Exchange proposed to codify the priority of the Route Peg Order in proposed new paragraph (a)(2)(E) of Exchange Rule 11.8. *See* Notice, *supra* note 3 at 39769 n. 5.

[8] If a Route Peg Order were partially executed, it would be able to execute against orders that were larger than the remaining balance of the Route Peg Order, but those orders would still need to be equal to or smaller than the original order quantity of the Route Peg Order. The Exchange stated that it elected to design the system in this manner to avoid the possibility of a single block-sized order potentially clearing all of the liquidity posted on the Exchange attributable to Route Peg Orders. *Id.* at 39769.

[9] The Exchange proposed to codify this principle in new subparagraph (a)(7) of Exchange Rule 11.8. The Exchange also proposes to add an exception for the Route Peg Order in Exchange Rule 11.8(a)(5), which otherwise would require that a partially executed order retain priority at the same limit price. The Exchange asserted that assigning a new timestamp after each partial execution would allow for a rotating priority of execution for Users (as defined in Exchange Rule 1.5(ee)) who place Route Peg Orders. *Id.* at 39769 n. 6.

[10] As defined in Exchange Rule 1.5(y).

[11] For example, for stocks listed on the New York Stock Exchange LLC (the ''NYSE''), regular session orders can be posted to the EDGX Book upon the dissemination by the responsible Securities Information Processor (''SIP'') of an opening print in that stock on the NYSE. Conversely, for stocks listed on the NASDAQ Stock Market LLC, regular session orders can be posted to the EDGX Book upon the dissemination of the NBBO by the responsible SIP in that stock.

[12] As defined in Exchange Rule 1.5(v).

[13] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] As defined in Exchange Rule 1.5(ee).

expect to post to the book, execute immediately against the Exchange's best bid or offer, or ferret out hidden liquidity at or inside the NBBO and use non-routable orders to achieve these ends. The Exchange believes that Users would be reluctant to post liquidity through the Route Peg Order if such orders could interact with professional traders. Finally, the Exchange highlights that any User can place a routable order that is eligible for execution against a Route Peg Order.

Based on the Exchange's statements, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–EDGX–2012–25) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67728; File No. SR–NYSEArca–2012–96]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Rule 6.47, ''Crossing'' Orders—OX

August 24, 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 August 20, 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 NYSE Arca Rule 6.47, ''Crossing'' Orders—OX. 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 NYSE Arca Rule 6.47 to adopt a new procedure that provides for the execution of Customer-to-Customer Crosses on the Trading Floor. The proposal is based on a nearly identical customer-to-customer cross functionality provided in NYSE Amex Rule 934NY(a).[4]

NYSE Arca Options Rule 6.47 currently provides procedures for executing four different cross order types: (i) Non-Facilitation Cross (Regular way Cross); (ii) Facilitation Cross; (iii) Solicited Order Cross; and (iv) Mid-Point Cross.[5] Each of the existing methods to cross orders is designed to provide a useful order execution functionality to market participants. The Exchange now proposes to add a new cross order type, the Customer-to-Customer Cross, in order to provide customers with a new method to get executions on the Trading Floor while allowing them to benefit from price improvement from the Trading Crowd quotes.

Currently, if a Floor Broker intends to cross customer orders, to buy and sell the same option contract, the orders are executed pursuant to the Non-Facilitation Cross procedures.[6] When utilizing these procedures, a Floor Broker must request bids and offers for the option series involved and make the trading crowd and the Trading Official aware of the request for a market via open outcry. Then, after providing an opportunity for such bids and offers to be made, the Floor Broker must bid above the highest bid in the crowd, or offer below the lowest offer in the crowd, by at least the MPV. If such higher bid or lower offer is not taken by members of the trading crowd, the Floor Broker may cross the orders at such higher bid or lower offer by announcing by open outcry that he is crossing the orders and giving the quantity and price. The crossing of the orders is contingent on the requirements that: (i) the execution price must be equal to or better than the NBBO; and (ii) the Floor Broker may not trade through any bids or offers on the Consolidated Book that are priced equal to or better than the proposed execution price. If there are bids or offers on the Consolidated Book at or better than the proposed execution price, the Floor Broker must trade against such bids or offers in the Consolidated Book on behalf of the customer order(s). Once bids or offers in the Consolidated Book are satisfied, the Floor Broker may cross the remaining balance of the orders, if any. The orders will be cancelled or posted in the Consolidated Book if an execution would take place at a price that is inferior to the NBBO.[7]

The Exchange proposes to make available a new crossing procedure for Customer orders in situations when a Floor Broker who holds a Customer order to buy and a Customer order to sell the same option contract.[8] Under the proposal, to conduct a Customer-to-Customer Cross, a Floor Broker would be required to request bids and offers for the option series involved and make the Trading Crowd and the Trading Official aware of the request for a market via

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[16] 15 U.S.C. 78s(b)(2).

[17] 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. 59472 (February 27, 2009), 74 FR 9843 (March 6, 2009) (SR–NYSEAlternext–2008–14).

[5] *See* NYSE Arca Options Rule 6.47.

[6] *See* NYSE Arca Options Rule 6.47(a).

[7] The Floor Broker, at the direction of the Customer, will cancel or post the order to the Consolidated Book.

[8] ''Customer'' for purposes of the proposed Customer-to-Customer Order type is defined in NYSE Arca Options Rule 6.1A(a)(4). NYSE Arca Options Rule 6.1A(a)(4) provides that the term ''Customer'' shall not include a broker or dealer. *See* NYSE Arca Options Rule 6.1A(a)(4). NYSE Amex uses a nearly identical definition of customer for purposes of its customer-to-customer cross order. NYSE Amex Options Rule 900.2NY(18) provides that ''[t]he term ''Customer'' means an individual or organization that is not a Broker/Dealer; when not capitalized, ''customer'' refers to any individual or organization whose order is being represented, including a Broker/Dealer.'' *See* NYSE Amex Options Rule 900.2NY(18).