

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69670; File No. SR-EDGX-2013-18]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

May 30, 2013.

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 May 21, 2013, EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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 and non-Members of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members and non-Members. The text of the proposed rule change is available on the Exchange's Internet Web site at 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 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 currently maintains logical ports for order entry (FIX, HP-API), drop copies (DROP), and market data (Data) (collectively, "Direct Logical Ports").⁴ The Exchange currently offers five (5) free Direct Logical Ports and charges \$500 for each additional Direct Logical Port. Currently, Members and non-Members may send live or test symbols through their FIX and/or HP-API logical ports. Members and non-Members may choose to send test symbols via their FIX and/or HP-API logical ports in order to test their software developed to take advantage of newly implemented exchange enhancements or to test their own software updates prior to implementation.

In order to provide dedicated testing ports to Members and non-Members to conduct the testing behavior described above, the Exchange proposes to add EdgeRisk Ports ("Test Ports") to the list of Direct Logical Ports currently offered by the Exchange. Test Ports would provide Members, and non-Member service bureaus that act as conduits for orders entered by Members that are their customers, access to a System⁵ test environment through which they can test their automated systems that integrate with the Exchange. Although Members and non-Members currently have the ability to send live and test symbols via FIX and/or HP-API logical ports, Test Ports are dedicated FIX or HP-API ports that would only allow orders for designated test symbols to flow through the production environment, rejecting any live symbols. This would provide Members and non-Members an opportunity to safely test their software developed to take advantage of newly implemented exchange enhancements or to test their own software updates prior to implementation without the risk of accidentally sending live symbols. The Exchange notes that Members and non-Members that choose not to utilize Test Ports will continue to be able to send

live and test symbols via their FIX and/or HP-API logical ports.

Accordingly, the Exchange proposes to amend its fee schedule to include Test Ports in the list of the Direct Logical Ports currently offered by the Exchange. The Exchange notes that Test Ports would be included among the five free Direct Logical Ports currently offered by the Exchange to Members and non-Members. In addition, the Exchange notes that it would continue to assess a monthly fee of \$500 for every logical port Members and non-Members maintain in excess of the five free Direct Logical Ports.⁶

Lastly, the Exchange proposes to make a ministerial change to the text of its fee schedule by amending the phrases "DIRECT Logical Ports" to "Direct Logical Ports" and "DIRECT Sessions" to "Direct Sessions."

The Exchange proposes to implement this proposal on June 3, 2013. The Exchange, pursuant to an information circular, will communicate to Members and non-Members that the Exchange proposed these changes in a filing with the Securities and Exchange Commission.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,⁷ in general, and furthers the objectives of Section 6(b)(4),⁸ 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.

The Exchange believes that the proposed fee structure will provide incentives to Members and non-Members to make efficient use of Test Ports while also providing market participants with the ability to safely test changes to their systems in a production environment. Recent challenges and industry experiences have highlighted the ongoing need for rigorous testing of trading software and infrastructure modifications.⁹ In providing Members and non-Members the option to obtain and use Test Ports, the Exchange can assist market participants by providing effective ways

⁶ See EDGX, EDGX Exchange Fee Schedule, <https://www.directedge.com/Membership/FeeSchedule/EDGXFeeSchedule.aspx>.

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

⁹ See, e.g., Securities Exchange Act Release No. 69077, 78 FR 18084 (March 25, 2013) (File No. S7-01-13) (proposing release for Regulation SCI stressing the importance of industry-wide testing to determine the behavior of automated systems under a variety of simulated conditions as a way to aid error prevention, including through the use of test facilities and test symbols).

⁴ See Securities and Exchange Act Release No. 64963 (July 26, 2011), 76 FR 45895 (August 1, 2011) (SR-EDGX-2011-21) (proposing to include logical ports that receive market data among the types of logical ports that the Exchange assesses a monthly fee to Members and non-Members). See also Securities and Exchange Act Release No. 67741 (Aug. 28, 2012), 77 FR 53950 (Sept. 4, 2012) (SR-EDGX-2012-36) (proposing to reduce the quantity of free Direct Logical Ports from ten to five).

⁵ As defined in Exchange Rule 1.5(cc).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ As defined in Exchange Rule 1.5(n).

for them to verify the completeness and correctness of their trading system modifications before transitioning those changes to their production trading environment.

The Exchange would use the revenue generated from its proposal to fund its administrative and infrastructure costs associated with allowing Members and non-Members to establish logical ports to connect to the Exchange's systems and continue to maintain and improve its infrastructure, market technology and services. The fees generated by the proposed fee amendment would cover the costs associated with responding to customer requests, configuring the Exchange's systems, programming to user specifications, and administering the testing service, among others. The additional revenue would offset the costs of maintaining a robust environment through which market participants can test their software modifications.

The Exchange also notes that assessing charges for Direct Logical Ports in excess of the five free ports, inclusive of the Test Ports, is reasonable because it is consistent with the practices of other exchanges, such as the BATS Exchange, Inc. and the NASDAQ OMX Group, Inc. that charge customers for logical ports.¹⁰ The Exchange further notes that the purchase of Test Ports is optional as Members and Non-Members may continue to send live and test symbols via their FIX and/or HP-API logical ports without purchasing Test Ports.

Lastly, the Exchange believes that its proposal to add Test Ports to the list of Direct Logical Ports offered by the Exchange is non-discriminatory as it applies uniformly to Members and non-Members.

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

The 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 the proposed amendment to the fee schedule represents a significant departure from previous Exchange fees or such fees offered by the Exchange's competitors.¹¹

The Exchange believes that its proposal would increase competition among trading centers as a robust production testing environment

enhances the quality of facilities the Exchange provides. Recent market events underscore the important need for rigorous testing of system modifications, and the Exchange has an opportunity to assist its Members and non-Members by providing effective ways for them to verify the completeness of their modifications. Those exchanges that provide an environment that allows market participants to safely test their system modifications help their market participants to reduce errors, thereby improving the overall quality of the exchange compared to those that do not provide similar capabilities.

Additionally, Members and non-Members may opt to disfavor the Exchange's pricing if they believe that alternative venues offer them better value. Accordingly, if the Exchange is charging excessive fees, the Exchange would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

The Exchange believes that the proposed rule change would not burden intramarket competition because the purchase of Test Ports is optional and available to all Members and non-Members at rates that apply on a uniform basis.

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 Act¹² and Rule 19b-4(f)(2)¹³ 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 email to rule-comments@sec.gov. Please include File Number SR-EDGX-2013-18 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-EDGX-2013-18. 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 10:00 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-EDGX-2013-18 and should be submitted on or before June 26, 2013.

¹⁰ See BATS Exchange, Inc., BATS BZX Exchange Fee Schedule, <http://batstrading.com/FeeSchedule>. See also NASDAQ OMX Group, Inc., Price List-Trading & Connectivity, <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

¹¹ *Id.*

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69672; File No. SR-Phlx-2013-58]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Permit Fees and Other Floor Fees

May 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 21, 2013 NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, 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

The Exchange proposes to amend the Permit Fee and certain Options Trading Floor Fees, including a technical amendment to the Pricing Schedule.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on June 3, 2013.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqomxphlx.cchwallstreet.com/>, at the principal office of the Exchange, on the Commission’s Web site at <http://www.sec.gov>, 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 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 purpose of the proposed rule change is to increase the Permit Fee in Section VI, entitled “Membership Fees” at Part A entitled “Permit and Registration Fees” of the Pricing Schedule to recoup costs associated with the administration of the Exchange’s members. The Exchange also proposes to amend Section VII entitled “Other Member Fees” at Part A entitled “Options Trading Floor Fees” of the Pricing Schedule to eliminate the Trading/Administrative Booths Fee and the Specialist Post Fee and increase the Floor Facility Fees. The Exchange believes that the increases are necessary to keep pace with escalating technology costs, costs of certain floor-related charges due to a rise in occupancy expenses and rising overhead costs associated with maintaining the trading floor.

The Exchange also proposes to make a technical amendment to the Pricing Schedule to eliminate certain unnecessary text in Chapter VI, Part A. Permit Fee

The Exchange assesses two different Permit Fees based on whether a member or member organization is transacting business on the Exchange. The Exchange assesses members and member organizations that are transacting business on the Exchange a Permit Fee of \$2,100 per month. A member or member organization will be assessed the \$2,100 monthly Permit Fee if that member or member organization: (1) Transacts its option orders in its assigned Phlx house account in a particular month; or (2) is a clearing member of The Options Clearing Corporation or a Floor Broker; or (3) for those member organizations which are under common ownership, transacts at least one options trade in a Phlx house account that is assigned to one of the member organizations under common ownership.³ The Exchange assesses members and member organizations that are not transacting business on the

Exchange a Permit Fee of \$7,500 per month. A member or member organization is assessed the \$7,500 Permit Fee for not transacting business on the Exchange if that member is either: (i) not a PSX Only Participant; ⁴ or (ii) not engaged in an options business at Phlx in a particular month. In addition, a member or member organization that sponsors an options participant ⁵ would pay an additional Permit Fee for each sponsored options participant.

The Exchange is proposing to increase the \$2,100 Permit Fee for members transacting business on the Exchange to \$2,150 per month. The Exchange is seeking to recoup costs incurred from the membership administration function. The Exchange is not amending the Permit Fee for members who are not transacting business on the Exchange. The Exchange proposes to make corresponding amendments to Section VI, Part A where the permit fee is referenced.

Other Member Fees

The Exchange proposes to eliminate the Trading/Administrative Booths fee of \$300 per month fee paid by floor brokers and clearing firms ⁶ and the Specialist Post Fee of \$3,000 per month paid by Specialist units. The Trading/Administrative Booth space is physical space on the Exchange’s trading floor, which space typically is used by floor brokers. The Specialist Post is physical space on the Exchange’s trading floor which is used by Specialist units. The Exchange proposes to amend the Floor Facility fee to cover the costs of operating the trading floor.

The Exchange proposes to increase the Floor Facility fee from \$300 to \$330 per month. Today, the Floor Facility fee is applicable to Registered Options

⁴ Applicants that apply for membership solely to participate in the NASDAQ OMX PSX equities market are not assessed a Permit Fee, Application Fee, Initiation Fee, or Account Fee. See Securities Exchange Act Release No. 61863 (April 7, 2010), 75 FR 20021 (April 16, 2010) (SR-Phlx-2010-54).

⁵ See Exchange Rule 1094 titled Sponsored Participants. A Sponsored Participant may obtain authorized access to the Exchange only if such access is authorized in advance by one or more Sponsoring Member Organizations. Sponsored Participants must enter into and maintain participant agreements with one or more Sponsoring Member Organizations establishing a proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Exchange.

⁶ Today, any floor participant may elect to obtain a booth on the Exchange’s trading floor.

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Common ownership means 75% common ownership or control.