

2017–30, and should be submitted on or before May 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Eduardo A. Aleman,**

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80434; File No. SR–BatsEDGX–2017–15]

### Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Fees for Use on the Exchange’s Equities Options Platform

April 11, 2017.

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 March 31, 2017, Bats EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

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

###### 1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (“EDGX Options”) to modify fees for its recently adopted Qualified Contingent Cross Orders (“QCC”).<sup>6</sup>

###### Background of QCC

The Exchange recently adopted functionality allowing participants on the Exchange the ability to submit to the Exchange Qualified Contingent Cross Orders, an order type offered by multiple other options exchanges.<sup>7</sup> The operation of Qualified Contingent Cross Orders on the Exchange is substantially similar in all material respects to the operation of such orders on such other exchanges.<sup>8</sup>

###### Pricing of QCC Orders

Since the launch of QCC order functionality on the Exchange on March 3, 2017, all executions in QCC orders have been provided free of charge. The Exchange proposes to amend these fees to reflect the value of the execution opportunities provided by the QCC functionality. Thus, the Exchange proposes to adopt fees corresponding to the four new fee codes that were adopted in connection with QCC, as described below.

*Fee Code QA.* Currently, fee code QA is appended to Customer<sup>9</sup> “QCC

Agency Orders”, which are QCC orders represented as an agent by a Member on behalf of another party and submitted for execution pursuant to Rule 21.1. The Exchange proposes that orders that yield fee code QA would provide the Member with a standard rebate of \$0.05 per contract.

*Fee Code QC.* Currently, fee code QC is appended to Customer “QCC Contra Orders”, which are QCC orders submitted by a Member for execution that will potentially execute against the QCC Agency Order pursuant to Rule 21.1. The Exchange proposes that orders that yield fee code QC would provide the Member with a standard rebate of \$0.05 per contract.

*Fee Code QM.* Currently, fee code QM is appended to Non-Customer<sup>10</sup> QCC Agency Orders, as described above. The Exchange proposes that for orders that yield fee code QM the Member would be charged a fee of \$0.019 [sic] per contract.

*Fee Code QN.* Currently, fee code QN is appended to Non-Customer QCC Agency Orders, as described above. The Exchange proposes that for orders that yield fee code QN the Member would be charged a fee of \$0.019 [sic] per contract.

###### Designated Give Up Footnote

Footnote 5 of the fee schedule currently specifies that when order is submitted with a Designated Give Up, as defined in Rule 21.12(b)(1), the applicable rebates for such orders when executed on the Exchange (yielding fee code BC,<sup>11</sup> NC<sup>12</sup> or PC<sup>13</sup>) are provided to the Member who routed the order to the Exchange. Pursuant to Rule 21.12, which specifies the process to submit an order with a Designated Give Up, a Member acting as an options routing firm on behalf of one or more other Exchange Members (a “Routing Firm”) is able to route orders to the Exchange and to immediately give up the party (a party other than the Routing Firm itself or the Routing Firm’s own clearing firm) who will accept and clear any resulting transaction. Because the Routing Firm is

the OCC, excluding any transaction for a Broker Dealer or a “Professional” as defined in Exchange Rule 16.1

<sup>10</sup> “Non-Customer” applies to any transaction that is not a Customer order.

<sup>11</sup> Fee code BC is appended Customer orders represented as agent by a Member on behalf of another party and submitted to BAM for potential price improvement pursuant to Rule 21.19, and provided a standard rebate of \$0.14 per share. *Id.*

<sup>12</sup> Fee code NC is appended to Customer orders which add liquidity in Non-Penny Pilot securities is provided a standard rebate of \$0.05 per share. *Id.*

<sup>13</sup> Fee code PC is appended to Customer orders which add liquidity in Penny Pilot securities is provided a standard rebate of \$0.05 per share. *Id.*

<sup>33</sup> 17 CFR 200.30–3(a)(12).

<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).

<sup>5</sup> The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

<sup>6</sup> See Securities Exchange Act Release No. 79942 (February 1, 2017), 82 FR 9804 (February 8, 2017) (SR-BatsEDGX–2017–11) (“QCC Filing”).

<sup>7</sup> See ISE Rule 715(j), Supplementary Material .01 to ISE Rule 715 and ISE Rule 721(b); see also CBOE Rule 6.53(u); NASDAQ PHLX Rule 1080(o); NYSE Arca Rule 6.62(bb), Commentary .02 to NYSE Arca Rule 6.62 and NYSE Arca Rule 6.90.

<sup>8</sup> See QCC Filing supra, note 6.

<sup>9</sup> “Customer” applies to any transaction identified by a Member for clearing in the Customer range at

responsible for the decision to route the order to the Exchange, the Exchange provides such Member with the rebate when orders that yield fee code BC, NC or PC are executed.

In connection with the adoption of fees applicable to QCC as described above the Exchange proposes to add fee code QA and QC to the lead-in sentence of footnote 5 and to append footnote 5 to fee code BC [sic] in the Fee Codes and Associated Fees table of the fee schedule.

#### Implementation Date

The Exchange proposes to implement this amendment to its fee schedule on April 3, 2017.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.<sup>14</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>15</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls.

The Exchange's proposal establishes corresponding fees and rebates for QCC Orders. The Exchange believes that its proposed fees and rebates related to QCC Orders are reasonable and fair and equitable as the fees will allow the Exchange to continue to offer QCC Order functionality, which is functionality offered on other options exchanges, with pricing that is comparable to that offered by other options exchanges. The Exchange further believes that this pricing structure is non-discriminatory, as it applies equally to all Members. In addition, the Exchange notes that, while orders for other market participants (Non-Customers) will be assessed a fee, Customers will receive a rebate. The Exchange believes the proposed rebate for Customer QCC Orders (in contrast to the fee for Non-Customer QCC Orders) is equitable and not unfairly discriminatory as the Exchange and other options exchanges have generally established pricing structures that are intended to encourage Customer order flow.

In connection with the adoption of fees applicable to QCC, the Exchange

proposes to QA and QC to the lead-in sentence of footnote 5 and to append footnote 5 to fee code BC [sic] in the Fee Codes and Associated Fees table of the fee schedule. The Exchange believes this proposal is a reasonable and equitable allocation of fees and dues and is not unreasonably discriminatory because, as is currently the case pursuant to footnote 5, the proposal simply will make clear that a firm acting as a Routing Firm that routes QCC Orders to the Exchange will be provided applicable rebates based on the Routing Firm's decision to route the order to the Exchange.

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

The Exchange does not believe that the proposed rule change to adopt fees related to QCC Orders will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposed functionality is open to all market participants. Further, the proposed rule will allow the Exchange to continue to offer QCC functionality, which in turn will allow the Exchange to compete with other options exchanges that currently offer QCC Orders. The pricing is designed to be competitive with pricing on other options exchanges and QCC functionality is a competitive offering by the Exchange. For these reasons, the Exchange does not believe that the proposed fee schedule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

#### *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 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>16</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>17</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
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BatsEDGX-2017-15 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-BatsEDGX-2017-15. 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 such 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-BatsEDGX-2017-15, and should be submitted on or before May 8, 2017.

<sup>14</sup> 15 U.S.C. 78f.

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

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Eduardo A. Aleman,**

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80431; File No. SR-Phlx-2017-27]

### Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Obvious Errors

April 11, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 3, 2017, NASDAQ PHLX LLC (“Phlx” or “Exchange”) 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

The Exchange proposes to amend Rule 1092 (“Current Rule”), entitled “Nullification and Adjustment of Options Transactions including Obvious Errors” by adding a new Commentary .04 to Rule 1092.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqphlx.cchwallstreet.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 aspects of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Last year, the Exchange and other options exchanges adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.<sup>3</sup> The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion.

Specifically, the options exchanges have been working together to identify ways to improve the process related to the adjustment and nullification of erroneous options transactions as it relates to complex orders<sup>4</sup> and stock-option orders. The goal of the process that the options exchanges have undertaken is to further harmonize rules related to the adjustment and nullification of erroneous options transactions. As described below, the Exchange believes that the changes the options exchanges and the Exchange have agreed to propose will provide transparency and finality with respect to the adjustment and nullification of erroneous complex order and stock-option order transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest.

The Proposed Rule is the culmination of this coordinated effort and reflects discussions by the options exchanges whereby the exchanges that offer complex orders and/or stock-option orders will universally adopt new provisions that the options exchanges collectively believe will improve the handling of erroneous options transactions that result from the

execution of complex orders and stock-option orders.<sup>5</sup>

The Exchange believes that the Proposed Rule supports an approach consistent with long-standing principles in the options industry under which the general policy is to adjust rather than nullify transactions. The Exchange acknowledges that adjustment of transactions is contrary to the operation of analogous rules applicable to the equities markets, where erroneous transactions are typically nullified rather than adjusted and where there is no distinction between the types of market participants involved in a transaction. For the reasons set forth below, the Exchange believes that the distinctions in market structure between equities and options markets continue to support these distinctions between the rules for handling obvious errors in the equities and option markets.

Various general structural differences between the options and equities markets point toward the need for a different balancing of risks for options market participants and are reflected in this proposal. Option pricing is formulaic and is tied to the price of the underlying stock, the volatility of the underlying security and other factors. Because options market participants can generally create new open interest in response to trading demand, as new open interest is created, correlated trades in the underlying or related series are generally also executed to hedge a market participant’s risk. This pairing of open interest with hedging interest differentiates the options market specifically (and the derivatives markets broadly) from the cash equities markets. In turn, the Exchange believes that the hedging transactions engaged in by market participants necessitate protection of transactions through adjustments rather than nullifications when possible and otherwise appropriate.

The options markets are also quote driven markets dependent on liquidity providers to an even greater extent than equities markets. In contrast to the approximately 7,000 different securities traded in the U.S. equities markets each day, there are more than 500,000 unique, regularly quoted option series. Given this breadth in options series the options markets are more dependent on liquidity providers than equities markets; such liquidity is provided most commonly by registered market makers

<sup>3</sup> See Securities Exchange Act Release No. 76225 (October 22, 2015), 80 FR 66060 (October 28, 2015) (SR-Phlx-2015-86).

<sup>4</sup> See Rule 1098(a)(i) defining complex orders and stock-option orders.

<sup>5</sup> An exchange that does not offer complex orders and stock-option orders will not adopt these new provisions until such time as the exchange offers complex orders and/or stock-option orders. The Exchange currently trades complex orders and/or stock-option orders pursuant to Phlx Rule 1098.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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