

fee levels at a particular exchange to be excessive. The Exchange believes that the proposed fees it charges for options overlying the Select Symbols remain competitive with fees charged by other exchanges and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than to a competing exchange. In particular, the Exchange believes increasing the rebate for Priority Customer Complex orders will attract additional order flow to the Exchange. As to the proposed fee change for taking liquidity from the Complex Order Book, the Exchange believes the proposed increase is reasonable and equitable in that the increase applies to all market participants that were previously subject to this fee. Moreover, the Exchange believes that the proposed fees are fair, equitable and not unfairly discriminatory because the proposed fees are consistent with price differentiation that exists today at all option exchanges. Additionally, the Exchange believes it remains an attractive venue for market participants to trade complex orders despite the proposed nominal fee increase as its fees are still lower than fees charged by other options exchanges. PHLX, for example, currently charges Broker-Dealers and Firms \$0.45 per contract for removing liquidity from its Complex Order Live Auction.<sup>15</sup>

#### *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.

#### *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) of the Act<sup>16</sup> and Rule 19b-4(f)(2)<sup>17</sup> 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2010-82 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-ISE-2010-82. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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-ISE-2010-82 and should be submitted on or before September 7, 2010.

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

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-20147 Filed 8-13-10; 8:45 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62683; File No. SR-EDGA-2010-09]

### **Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to a Revenue Sharing Program With Correlix, Inc.**

August 10, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, July 28, 2010, EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission (the "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**

EDGA proposes to establish a revenue sharing program with Correlix, Inc. ("Correlix"). There is no new proposed rule text.

#### **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.

<sup>15</sup> See PHLX Fee Schedule. See also Securities Exchange Act Release No. 61398 (January 22, 2010), 75 FR 4884 (January 29, 2010) (SR-PHLX-2009-116).

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

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

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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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

1. Purpose

The Exchange is filing a proposed rule change to establish a revenue sharing program with Correlix effective upon filing with the Commission. Pursuant to an agreement with Correlix, Correlix will provide to users of the Exchange real-time analytical tools to measure the latency of orders to and from that System. Under the agreement, the Exchange will receive 30% of the total monthly subscription fees received by Correlix from parties who have contracted directly with Correlix to use their RaceTeam latency measurement service for the Exchange. The Exchange will not bill or contract with any Correlix RaceTeam customer directly.

Pricing for the Correlix RaceTeam product for the Exchange varies depending on the depth of latency information requested, the number of unique MPIDs subscribed by the customer, and the number of ports available for monitoring by Correlix. For boundary-level Exchange latency information,<sup>4</sup> the fee will be an initial \$1,500 monthly base fee for the first 25 ports associated in aggregate with any of the MPIDs selected by the Member for latency monitoring. For each additional 25 ports associated in aggregate with any of the MPIDs selected by the Member for latency monitoring, an additional monthly charge of \$750 will be assessed. For match-level Exchange latency information,<sup>5</sup> the fee will be an initial \$2,000 monthly base fee for the first 25 ports associated in aggregate with any of the MPIDs selected for latency monitoring, and an additional \$1000 per month for each additional 25 ports associated in aggregate with any of the MPIDs selected for latency monitoring.

Under the program, Correlix will see an individualized unique Exchange-generated identifier that will allow Correlix RaceTeam to determine round

<sup>4</sup> The time that elapses from an order message's receipt by an Exchange device until the time that a matching engine acknowledgement with respect to such order message is transmitted from the Exchange device back to the user. For market data, the time measurement will be from the time that the market data engine receives a market data update until the time that the market data update is transmitted from the Exchange device back to the user.

<sup>5</sup> In addition to the boundary-level Exchange latency information, match level information will also provide further elapsed time detail for messaging between Exchange internal systems.

trip order time,<sup>6</sup> from the time the order reaches the Exchange extranet, through the Exchange matching engine, and back out of the Exchange extranet. The RaceTeam product offering does not measure latency outside of the Exchange extranet. The unique identifier serves as a technological information barrier so that the RaceTeam data collector will only be able to view data for Correlix RaceTeam subscriber firms related to latency. Correlix will not see subscriber's individual order detail such as security, price or size. Individual RaceTeam subscribers' logins will restrict access to only their own latency data. Correlix will see no specific information regarding the trading activity of non-subscribers.

The Exchange believes that above arrangement will provide users of the Exchange greater transparency into the processing of their trading activity and allow them to make more efficient trading decisions.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,<sup>7</sup> which requires the rules of an exchange to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. In particular, the proposal will provide greater transparency into trade and information processing and thus allow market participants to make better-informed and more efficient trading decisions.

In addition, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(4) of the Act,<sup>9</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. In particular, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct orders to competing venues and that use of the Correlix RaceTeam product is

<sup>6</sup> The product measures latency of orders whether the orders are rejected, executed, or partially executed.

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

completely voluntary. Further, the Exchange makes the RaceTeam product uniformly available pursuant to a standard non-discriminatory pricing schedule offered by Correlix.

*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.

*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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate 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:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGA-2010-09 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-EDGA-2010-09. This file number should be included on the

subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission,<sup>10</sup> 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-EDGA-2010-09 and should be submitted on or before September 7, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-20105 Filed 8-13-10; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62680; File No. SR-EDGX-2010-06]

### Self-Regulatory Organizations; EDGX Exchange, Inc.; Order Approving Proposed Rule Change to Amend the EDGX Fee Schedule to Impose Fees for Physical Ports Used To Connect To EDGX Exchange

August 10, 2010.

#### I. Introduction

On July 1, 2010, the EDGX Exchange, Inc. ("EDGX" or "Exchange") filed with the Securities and Exchange

<sup>10</sup> The text of the proposed rule change is available on Exchange's Web site at <http://www.directedge.com>, on the Commission's Web site at <http://www.sec.gov>, at EDGA, and at the Commission's Public Reference Room.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

Commission ("Commission"), 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> a proposed rule change to amend its fee schedule to begin charging an annual fee to Members and non-members for certain physical ports used to connect to the Exchange's systems. The proposed rule change was published for comment in the **Federal Register** on July 9, 2010.<sup>3</sup> The Commission received no comment letters regarding the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The Exchange proposes to begin charging an annual fee to Members and non-members for physical ports used to connect to the Exchange's systems for purposes that include order entry and the receipt of Exchange data. A physical port is a port used by a Member or non-member to connect into the Exchange at the data centers where Exchange servers are located.<sup>4</sup> Physical port connections can occur either through an external telecommunication circuit or a cross-connection. Currently, Members and non-members have a number of alternative methods available to them for connecting to the Exchange without the need to obtain an independent physical connection, including the use of financial extranets or service bureaus. The Exchange believes that some Members and non-members may wish to connect directly to the Exchange's systems with their own dedicated circuit connection. To support their requirements and the associated infrastructure costs related to direct circuit connectivity, EDGX proposes to charge Members and non-members the following annual fees based on the connectivity service type:

Connection service type	Annual fee per physical port
1 Gb Copper .....	5,000
1 Gb Fiber .....	7,500
10 Gb Fiber .....	10,000

Only one physical port is required to access all services for EDGX. However, Members and non-members may choose more than one physical port and different connection service types based on their needs. The Exchange notes that

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

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

<sup>3</sup> See Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599.

<sup>4</sup> Non-members may include non-member service bureaus that act as a conduit for orders entered by Exchange Members that are their customers, as well as sponsored participants and market data recipients.

other market centers provide similar services to their Members and non-members.<sup>5</sup>

The Exchange believes that the proposal will offer market participants additional EDGX connectivity choices, providing for greater access to EDGX while allowing each market participant to choose the method of connectivity based on its specific needs.

#### III. Discussion

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.<sup>6</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(4) of the Act,<sup>7</sup> which requires the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities, and Section 6(b)(5) of the Act,<sup>8</sup> 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 Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,<sup>9</sup> which requires that the rules of an exchange not impose a burden on competition not necessary or appropriate in furtherance of the purpose of the Act. Finally, the Commission finds that the proposed rule change is consistent with Rule 603(a) of Regulation NMS,<sup>10</sup> which requires an exclusive processor that distributes information with respect to quotations for or transactions in an NMS stock to do so on terms that are fair and reasonable and not unreasonably discriminatory.

The Commission believes that the proposed physical port fees are equitably allocated among Members and non-members and do not unfairly or

<sup>5</sup> See Securities Exchange Act Release No. 61545 (February 19, 2010), 75 FR 8769 (February 25, 2010) (order approving File No. SR-BATS-2009-032). See also Securities Exchange Act Release No. 62392 (June 28, 2010), 75 FR 38857 (July 6, 2010) (notice of filing of File No. SR-Nasdaq-2010-077).

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78f(b)(8).

<sup>10</sup> 17 CFR 242.603(a).