

the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the Act; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

#### B. Other Investments by Same Group Fund of Funds

Applicants agree that the relief to permit the Same Group Fund of Funds to invest in Other Investments shall be subject to the following condition:

13. Applicants will comply with all provisions of rule 12d1-2 under the Act, except for paragraph (a)(2), to the extent that it restricts any Same Group Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62823, File No. 4-51]

### Joint Industry Plan; Order Approving Amendment To Add EDGA Exchange, Inc. and EDGX Exchange, Inc. as Participants to National Market System Plan Establishing Procedures Under Rule 605 of Regulation NMS

September 1, 2010.

#### I. Introduction

On March 30, 2010, EDGA Exchange, Inc. ("EDGA") and EDGX Exchange, Inc. ("EDGX") submitted to the Securities and Exchange Commission ("SEC" or "Commission") in accordance with Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 of Regulation NMS,<sup>2</sup> a proposed amendment to the national market

system plan establishing procedures under Rule 605 of Regulation NMS ("Joint-SRO Plan" or "Plan").<sup>3</sup> Under the proposed amendment, EDGA and EDGX would be added as participants to the Joint-SRO Plan. Notice of filing and an order granting temporary effectiveness of the proposal were published in the **Federal Register** on April 9, 2010.<sup>4</sup> The Commission did not receive any comments on the proposed amendment. This order approves the amendment on a permanent basis.

#### II. Discussion

The Joint-SRO Plan establishes procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS, available to the public in a uniform, readily accessible, and usable electronic format. The current participants to the Joint-SRO Plan are the American Stock Exchange LLC (n/k/a NYSE Amex, Inc.), BATS Exchange, Inc., Boston Stock Exchange, Inc. (n/k/a NASDAQ OMX BX, Inc.), Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc. (n/k/a National Stock Exchange<sup>SM</sup>), International Securities Exchange, LLC, The NASDAQ Stock Market LLC, National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc.), New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC), Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.), and Philadelphia Stock Exchange, Inc. (n/k/a NASDAQ OMX PHLX, Inc.). The proposed amendment would add EDGA and EDGX as participants to the Joint-SRO Plan.

Section III(b) of the Joint-SRO Plan provides that a national securities exchange or national securities association may become a party to the Plan by: (i) Executing a copy of the Plan, as then in effect (with the only changes being the addition of the new participant's name in Section 11(a) of the Plan and the new participant's single-digit code in Section VI(a)(1) of the Plan) and (ii) submitting such executed plan to the Commission for approval. Each of EDGA and EDGX has submitted a signed copy of the Joint-SRO Plan to the Commission in

<sup>3</sup> 17 CFR 242.605. On April 12, 2001, the Commission approved a national market system plan for the purpose of establishing procedures for market centers to follow in making their monthly reports available to the public under Rule 11Ac1-5 under the Act (n/k/a Rule 605 of Regulation NMS). See Securities Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814 (April 17, 2001).

<sup>4</sup> See Securities Exchange Act Release No. 61824 (April 1, 2010), 75 FR 18246 (April 9, 2010).

accordance with the procedures set forth in the Plan regarding new participants.

The Commission finds that the amendment to the Joint-SRO Plan is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment, which permits EDGA and EDGX to become participants to the Joint-SRO Plan, is consistent with the requirements of Section 11A of the Act,<sup>5</sup> and Rule 608 of Regulation NMS.<sup>6</sup> The Plan established appropriate procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS, available to the public in a uniform, readily accessible, and usable electronic format. The amendment to include EDGA and EDGX as participants in the Joint-SRO Plan should contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system by facilitating the uniform public disclosure of order execution information by all market centers. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow EDGA and EDGX to become participants in the Joint-SRO Plan. The Commission finds, therefore, that approving amendment to the Joint-SRO Plan is appropriate and consistent with Section 11A of the Act.<sup>7</sup>

#### IV. Conclusion

It is therefore ordered, pursuant to Section 11A(a)(3)(B) of the Act<sup>8</sup> and Rule 608 of Regulation NMS,<sup>9</sup> that the amendment to the Joint-SRO Plan to add EDGA and EDGX as participants to the Joint-SRO Plan is approved and EDGA and EDGX are authorized to each act jointly with the other participants to the Joint-SRO Plan in planning, developing, operating, or regulating the Plan as a means of facilitating a national market system.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

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<sup>5</sup> 15 U.S.C. 78k-1.

<sup>6</sup> 17 CFR 242.608.

<sup>7</sup> 15 U.S.C. 78k-1.

<sup>8</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>9</sup> 17 CFR 242.608.

<sup>10</sup> 17 CFR 200.30-3(a)(29).

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.