

required to bid above the final quote bid or offer below the final quote offer yet still be at a final quote price. Again, the Floor Broker would be obligated to trade with the final quote interest at that price before crossing the balance of the orders. For instance, the electronic market in the series is 3.00 bid offered at 3.30, and the Floor Broker receives orders to cross at 3.10 or 3.20. When the Floor Broker requests a Final Quote, the crowd responds with a market of 3.20 bid at 3.30. In order to meet the obligation to execute the order, the Floor Broker would have to offer at 3.20, fill the bids in the crowd at 3.20, and then cross the balance of the orders.

Additionally, the Exchange proposes to add two commentaries to Rule 6.47. Commentary .02 would allow an OTP Holder to submit an order that has been solicited prior to transmittal to the Floor, but would not allow the new procedures to be used to circumvent limitations on principal transactions as described in Rule 6.47A, nor allow the OTP Holder to solicit a contra order from an NYSE Arca Market Maker assigned to the class of options to trade against an agency order.

Commentary .03 would state it is a violation of a Floor Broker's duty for best execution to cancel an agency order to avoid execution at a better price.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change will provide encouragement for Market Makers to provide their best prices earlier, upon the initial presentation of trading interest to the crowd, and the broker will be required to better the crowd's price in order to execute the cross transaction. The proposed new process should thus increase the possibility of price improvement for Customer orders.

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

The Exchange does not believe that the proposed rule change will 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*

No written comments were solicited or received with respect to the proposed rule change.

### **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 such 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-NYSEArca-2010-90 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-NYSEArca-2010-90. 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.<sup>5</sup> 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-NYSEArca-2010-90 and should be submitted on or before November 18, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

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

[FR Doc. 2010-27266 Filed 10-27-10; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-63163; File No. SR-EDGX-2010-14]**

### **Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGX Rule 11.5**

October 22, 2010.

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 October 20, 2010, the EDGX Exchange, Inc. (the "Exchange" or the "EDGX") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>5</sup> The text of the proposed rule change is available on the Commission's Web site at [www.sec.gov](http://www.sec.gov).

<sup>6</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.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend EDGX Rule 11.5(a)(2) to provide system functionality that will cancel any portion of a market order submitted to the Exchange that would execute at a price that is more than \$0.50 or 5 percent worse than last sale at the time the order initially reaches the Exchange, whichever is greater. The text of the proposed rule change is available on the Exchange's Internet Web site at <http://www.directedge.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 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 Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of the proposed rule change is to protect market participants from executions at prices that are significantly worse than the last sale at the time of order entry by providing Exchange system functionality that will cancel any portion of a market order (as defined in Rule 11.5(a)(2)) that would execute at a price that is 50 cents or 5 percentage points worse than the consolidated last sale, whichever is greater. Any portion of a market order that would otherwise execute outside of these thresholds will be immediately cancelled back to the User.<sup>3</sup> The Exchange believes that Users who submit market orders to the Exchange generally intend to receive executions for the full size of their orders at or near the consolidated last sale and are not always aware that there may not be enough liquidity at that price to fill the entire size of their orders. The Exchange believes that the market order thresholds proposed in this rule filing will help avoid executions of market

orders at prices that are significantly worse than the consolidated last sale and avoid potentially creating clearly erroneous situations.

Those Users who intend to trade against liquidity at multiple price points from the consolidated last sale beyond the market order thresholds proposed in this rule filing can clearly and unambiguously specify that intent by submitting a marketable limit order to the Exchange.

#### 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,<sup>4</sup> which requires the rules of an exchange 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. The proposed rule change also is designed to support the principles of Section 11A(a)(1)<sup>5</sup> of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it seeks to promote transparency for how order flow will be handled during a trading pause.

### 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

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has

become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>8</sup> However, Rule 19b-4(f)(6)<sup>9</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission notes (i) the proposal is similar to existing thresholds on market orders adopted by The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., BATS Exchange, Inc., and NYSE Arca, Inc; (ii) it presents no novel issues; and (iii) it may provide a benefit to market participants. For these reasons, the Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay, and hereby grants such waiver.<sup>10</sup>

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-EDGX-2010-14 on the subject line.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, EDGX has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which the Exchange filed the proposed rule change, or such shorter time as designated by the Commission.

<sup>8</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>9</sup> *Id.*

<sup>10</sup> For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>3</sup> As defined in Exchange Rule 1.5(cc).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

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

*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-2010-14. 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>11</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-EDGX-2010-14 and should be submitted on or before November 18, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-27244 Filed 10-27-10; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>11</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 EDGX, and at the Commission's Public Reference Room.

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

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63165; File No. SR-ISE-2010-102]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Sales Value Fee**

October 22, 2010.

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 October 14, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 adopt ISE Rule 212 (Sales Value Fee). The text of the proposed rule change is available on the Exchange's Web site <http://www.ise.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 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**

Pursuant to Section 31 of the Securities Act and Rule 31 thereunder,<sup>3</sup> national securities exchanges and

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

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

<sup>3</sup> 17 CFR 240.31.

associations (collectively, "SROs") are required to pay a transaction fee to the Commission that is designed to recover the costs related to the government's supervision and regulation of the securities markets and securities professionals. To offset this obligation, the Exchange Members are assessed charges in connection with satisfaction of the Exchange's payment obligations under Section 31. The fee is collected indirectly from Exchange Members through their clearing firms by the Options Clearing Corporation ("OCC") on behalf of the Exchange with respect to options sales and options exercises. The fee is collected by billing the Member's designated clearing firm for the amount owed by the member to the Exchange.

The Exchange is now proposing to codify this process by adopting proposed Rule 212 (Sales Value Fee). Proposed ISE Rule 212 defines the Sales Value Fee ("Fee") as the fee assessed by ISE to each member for sales of securities on ISE with respect to which ISE is obligated to pay a fee to the Commission under Section 31 of the Exchange Act. Proposed ISE Rule 212 provides that, to the extent the Exchange may collect more from Members under ISE Rule 212 than is due to from the Exchange to the Commission under Section 31 of the Exchange Act, for example due to rounding differences, the excess monies collected may be used by the Exchange to fund its general operating expenses.

Proposed ISE Rule 212 explains that the transactions to which the Fee applies are sales of options (other than options on a security index) and sales of securities resulting from the exercise of physical-delivery options traded on ISE. As discussed above, the proposed rule specifies that the Fee is collected indirectly from Exchange Members through their clearing firms by the OCC on behalf of the Exchange with respect to options sales and options exercises. Proposed ISE Rule 212 also sets forth the formula for calculating the Fee with respect to covered options transactions, which is equal to (a) the Commission's Section 31 fee rate multiplied by (b) the Member's aggregate dollar amount [sic] of covered sales resulting from options transactions occurring on the Exchange during any computational period.

**2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>4</sup> in general, and furthers the objectives of

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