access to the current portfolio composition of the Funds through the Funds' Web site and/or at the Exchange's Web site. In addition, the Commission notes that Standard & Poor's is not a broker-dealer, is not affiliated with a broker-dealer, and has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index and Sub-Indexes. Lastly, the Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees, and trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on ETP Holders [26] acting as registered Market Makers [27] in Trust Issued Receipts to facilitate surveillance.

The Exchange has represented that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Funds will be subject to the criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto for initial and continued listing of the Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures applicable to derivative products, including Trust Issued Receipts, are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the Futures Exchanges, all of which are members of the Intermarket Surveillance Group (''ISG''). For components traded on exchanges, not more than 10% of the weight of a Fund's portfolio in the aggregate shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

(5) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated, as well as during the Core Trading Session when the IOPV may be based in part on static underlying values; (b) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (c) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the IOPV is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(6) The anticipated minimum number of Shares for each Fund to be outstanding at the start of trading will be 100,000 Shares.

(7) For the initial and continued listing of the Shares, the Funds must be in compliance with NYSE Arca Equities Rule 5.3 and Rule 10A–3 under the Act.[28]

(8) The Exchange will obtain a representation (prior to listing the Shares of each Fund) from the Trust that the NAV per Share will be calculated daily and made available to all market participants at the same time.

This approval order is based on the Exchange's representations.[29]

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [30] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–NYSEArca–2011–94) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–3152 Filed 2–9–12; 8:45 am]

BILLING CODE 8011–01–P

[26] *See* NYSE Arca Equities Rule 1.1(n) (defining ETP Holder).

[27] *See* NYSE Arca Equities Rule 1.1(u) (defining Market Maker).

[28] 17 CFR 240.10A–3.

[29] The Commission notes that it does not regulate the market for futures in which the Fund plans to take positions, which is the responsibility of the Commodity Futures Trading Commission (''CFTC''). The CFTC has the authority to set limits on the positions that any person may take in futures. These limits may be directly set by the CFTC or by the markets on which the futures are traded. The Commission has no role in establishing position limits on futures, even though such limits could impact an exchange-traded product that is under the jurisdiction of the Commission.

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66335; File No. SR–EDGA–2012–03]

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

February 6, 2012.

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 January 31, 2012, the EDGA Exchange, Inc. (the ''Exchange'' or the ''EDGA'') 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 Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://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,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

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

In SR–EDGA–2011–40,[4] the Exchange amended several routing options contained in Rule 11.9(b)(3) to allow Users[5] more discretion if shares remain unexecuted after routing. In particular, Rule 11.9(b)(3) was amended to provide that Users may elect that any remainder of an order be posted to the EDGX Exchange, Inc. (''EDGX'') for any of the routing options listed in the rule, except those listed.[6] As a result of this amendment, the Exchange proposes to make a corresponding amendment to Flag P of its fee schedule. The subject amendment provides a rebate of $0.0027 per share for any order that after passing through EDGA and other destinations adds liquidity to EDGX (including during the Pre-Opening Session[7] and Post-Closing Sessions)[8] and yields Flag P. This would occur as a result of the Member's order using any of the routing strategies listed in Rule 11.9(b)(3) where the residual of the order posts to EDGX.[9]

As a result of this change, the Exchange proposes to revise the description on the Flag P to broaden its applicability to several routing strategies, instead of just an EDGA-originated ROUC routing strategy. The Flag P is thus proposed to state ''Adds liquidity on EDGX, including pre & post market.''

The Exchange proposes to implement this amendment to its fee schedule on February 1, 2012.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] 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 rebate for Flag P of $0.0027 per share is an equitable allocation of reasonable dues, fees, and other charges. First, the rebate is designed to incentivize Members to route through EDGA using any of the applicable strategies listed in Rule 11.9(b)(3), as discussed above, to reach multiple sources of liquidity on EDGA before routing to other destinations, and thereby potentially increases volume on EDGA to the extent an order using any of these routing strategies executes on EDGA. The routing strategy allows Members to reach multiple sources of liquidity by routing order flow through EDGA rather than going directly to various venues. The rebate provides Members with a flat rate of $0.0027 per share rebate if the particular routing strategy posts to EDGX and is later executed. When the Exchange's routing broker/dealer, Direct Edge ECN LLC d/b/a DE Route (''DE Route'') achieves certain tiers on EDGX using any of the applicable routing strategies in Rule 11.9(b)(3) that post residual on EDGX, it is able to pass through a better rebate than if it had not achieved a tier.[12] For example, if the Member had routed to EDGX directly and the order had added liquidity to EDGX, the Member could receive rebates ranging from $0.0023–$0.0034, depending on if a volume threshold were satisfied. [13] The $0.0027 per share rebate thus represents a rate in between these various tiered and non-tiered rebates provided for adding liquidity to EDGX. This allows EDGA Members to share in potential volume tier savings realized by DE Route when it achieves certain tiers.

This type of rate is also similar to EDGA's rate for removing liquidity from LavaFlow (Flag U). The standard removal rate of $0.0029 per share is reduced to $0.0023 per share for orders routed to LavaFlow that achieve certain volume thresholds, as EDGA Members are able to share in potential volume tier savings realized by EDGA when routing to LavaFlow.[14] This rebate is also comparable to other rebates offered by the Exchange that add liquidity, such as the ROOC[15] routing strategy, which yields Flags 8 and 9.[16] For Flags 8 and 9, the Exchange passes through the default rebate (*i.e.,* non-tier) from the primary listing market (*i.e.,* NYSE Arca, NYSE Amex) to Members because DE Route does not generally achieve a favorable tier rate. This rate is also consistent with the processing of similar routing strategies by EDGA's competitors where EDGA takes into account the rates that it is charged or rebated when routing to other low cost destinations.[17] Finally, as another example, when EDGA routes to a primary exchange's opening cross, (Flag O), the Exchange passes through the tier savings that DE Route achieves on an away exchange to its Members.[18] This tier savings takes the form of a cap of Members' fees at $10,000 per month for using Flag O.

The Exchange believes that the rebate is consistent with how other Exchanges rebate Members for routing through an affiliated Exchange. For example, when a Member removes liquidity from Nasdaq BX, it is rebated $0.0005 per share if it does not achieve any tiers, or $0.0014 per share if it does achieve certain tiers.[19] However, when the Member removes liquidity from Nasdaq BX by routing through Nasdaq OMX using any number of strategies such as SAVE/SOLV/CART, and removes liquidity from Nasdaq BX as a result, it is rewarded a higher rebate of $0.0014 per share.[20]

The Exchange believes that the rebate of $0.0027 is also reasonable as it is consistent with how other exchanges pass through charges or rebates for orders routed to a different exchange that add or remove liquidity. For example, when Nasdaq routes to Nasdaq PSX, Nasdaq passes back Nasdaq PSX's standard charge of $0.0027 per share. When NYSE Arca routes to NYSE, NYSE Arca passes back the standard NYSE rebate of $0.0015 per share. These charges or rebates generally

[4] *See* Securities Exchange Act Release No. 66231 (January 24, 2012), 77 FR 4605 (January 30, 2012).

[5] As defined in Rule 1.5(cc) [sic].

[6] Routing options listed in Rules 11.9(b)(3)(a) and (n)–(q) are not altered as a result of this amendment. The routing option in Rule 11.9(b)(3)(a) already posts to EDGX and no amendment to the rule was needed as no discretion is provided to the User. The routing options in Rules 11.9(b)(3)(n)–(q) do not have the option to post the remainder of an order to EDGX.

[7] As defined in EDGA Rule 1.5(s).

[8] As defined in EDGA Rule 1.5(r).

[9] This includes all routing strategies in Rule 11.9(b)(3), except for (n)–(q), that do not have the option to post the remainder of an order to EDGX.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] *See* EDGX fee schedule, footnote 1.

[13] *Id.*

[14] *See* footnote 6 of the EDGA fee schedule.

[15] *See* EDGA Exchange Rule 11.9(b)(3)(n).

[16] *See* the EDGA Fee Schedule where Flag 8 offers a rebate of $.0015 where a member routes an order to NYSE Amex using the ROOC routing strategy and adds liquidity, and Flag 9 offers a rebate of $.0021 where a member routes an order to NYSE Arca using the ROOC routing strategy and adds liquidity.

[17] *See also* BATS BZX fee schedule, describing Discounted Destination Specific Routing (''One Under'') to NYSE, NYSE ARCA and NASDAQ. See Securities Exchange Act Release No. 62858, 75 FR 55838 (September 14, 2010) (SR–BATS–2010–023) (modifying the BATS fee schedule in order to amend the fees for its BATS + NYSE Arca destination specific routing option to continue to offer a ''one under'' pricing model).

[18] *See* footnote 5 of the EDGA fee schedule.

[19] *See* Nasdaq OMX BX Rule 7018.

[20] *See* Nasdaq OMX Rule 7018.

approximate what the originating exchange receives from the exchange that is routed to plus or minus a certain differential. EDGA's pricing is consistent with this premise.

The Exchange believes that the proposed rebate is non-discriminatory in that it applies uniformly to all Members.

The Exchange also notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to 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.

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 [21] and Rule 19b–4(f)(2) [22] 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–EDGA–2012–03 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–2012–03. 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–EDGA–2012–03 and should be submitted on or before March 2, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–3095 Filed 2–9–12; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13002 and #13003]

Alabama Disaster #AL–00040

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–4052–DR), dated 02/01/2012.

Incident: Severe Storms, Tornadoes, Straight-Line Winds, and Flooding.

Incident Period: 01/22/2012 through 01/23/2012.

Effective Date: 02/01/2012.

Physical Loan Application Deadline Date: 04/02/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 11/01/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/01/2012, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Chilton, Jefferson.

Contiguous Counties (Economic Injury Loans Only)

Alabama: Autauga, Bibb, Blount, Coosa, Dallas, Elmore, Perry, Saint Clair, Shelby, Tuscaloosa, Walker.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 19b–4(f)(2).

[23] 17 CFR 200.30–3(a)(12).