

The Exchange also proposes to establish criteria for identifying strategy orders, a cut-off time for strategy orders to be established by the Exchange on a class-by-class basis,¹⁰ and a prohibition against changing or cancelling strategy orders.¹¹ In addition, the Exchange proposes that all other option orders for participation in the modified HOSS opening procedures, and any change to or cancellation of any such order, must be received prior to the applicable cut-off time in order to participate at the opening price for the applicable option series.¹²

The Exchange represents that it currently conducts heightened surveillance on the days when the modified HOSS opening procedures are utilized. The Exchange further represents that those same heightened surveillance practices will be utilized on every Wednesday and that these surveillance practices will be adequate to monitor trading in all constituent option series used to calculate volatility indexes. The Exchange also expects to enhance surveillance practices in tandem with any resultant trading volume growth.

III. Discussion and Commission Findings

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.¹³ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁴ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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

¹⁰ The strategy order cut-off time will be no earlier than 8:00 a.m. and no later than the opening of trading in the option series.

¹¹ Similar to the existing modified HOSS opening procedures, the Exchange would permit a strategy order to be changed or cancelled after the strategy order cut-off time if the order is (i) not executed in the modified HOSS opening procedures and the change or cancellation is submitted after the modified HOSS opening procedures have concluded, or (ii) changed or cancelled to correct a legitimate error. See CBOE Rule 6.2B.08(c).

¹² The applicable cut-off time would be established by the Exchange on a class-by-class basis, provided it would be no earlier than 8:25 a.m. and no later than the opening of trading in the option series. See CBOE Rule 6.2B.08(d).

¹³ 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).

¹⁴ 15 U.S.C. 78f(b)(5).

system and, in general, to protect investors and the public interest.

The proposed modified HOSS opening procedures would apply only on the expiration/final settlement dates for volatility index options and futures. The normal HOSS opening procedures would apply on all other days. Except for the rule provisions that the Exchange identifies as applicable only to Hybrid 3.0 options,¹⁵ the proposed modified HOSS opening procedures applicable to all volatility index constituent options are similar to the existing modified HOSS opening procedures applicable to VIX constituent options.¹⁶

The Exchange states that the primary purpose of this proposed rule change is to establish a strategy order cut-off time on expiration/final settlement dates for options series that are used to calculate the exercise settlement/final settlement value for volatility index options and futures. As noted by the Exchange, applying a strategy order cut-off time to volatility index constituent options on expiration/final settlement dates will allow exposure of order imbalances in the constituent options that resulted from unwinding hedges for volatility index derivatives, allow market participants to review and offset order imbalances, and facilitate a more stable opening process because an option series will not open if there is an imbalance. In addition, as noted by the Exchange, the strategy order cut-off time could result in market participants submitting orders that price-improve the constituent options.

The other aspects of the proposed rule change, including the technical amendments to CBOE Rules 6.2B.01 and 24.9(a)(5), as noted by the Exchange, are intended to provide additional clarity to the Exchange's rules, including in connection with the existence of different volatility indexes that overlie different implied volatility measurement periods.¹⁷

The Commission believes that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-CBOE-2013-102) be, and hereby is, approved.

¹⁵ See Notice, *supra* note 3, at 65405.

¹⁶ See CBOE Rule 6.2B.01.

¹⁷ The Exchange notes that it will submit a separate rule filing to propose the listing of VXST options.

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71059; File No. SR-EDGA-2013-37]

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

December 12, 2013.

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 December 6, 2013, EDGA Exchange, Inc. (the "Exchange" or "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 Members³ of the Exchange pursuant to EDGA Rule 15.1(a) and (c) ("Fee Schedule") to exclude odd lot transactions from its definition of Total Consolidated Volume ("TCV"), which is used to determine whether a Member is eligible for certain pricing tiers. The text of the proposed rule change is available on the Exchange's Web site at www.directedge.com, at the Exchange's principal office, on the Commission's Web site at www.sec.gov, and at the Public Reference Room of the Commission.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term "Member" is defined as "any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a "member" of the Exchange as that term is defined in Section 3(a)(3) of the Act." See Exchange Rule 1.5(n).

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 Exchange currently defines TCV as "the volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities for the month in which the fees are calculated."⁴ An odd lot transaction, which is generally an execution of less than 100 shares,⁵ is currently not reported to the consolidated tape, and therefore, not included in the Exchange's calculation of TCV. Beginning December 9, 2013, odd lot transactions will be reported to the consolidated tape.⁶ The Exchange, therefore, proposes to amend its Fee Schedule to exclude odd lot transactions from its definition of TCV, which is used to determine whether a Member is eligible for certain pricing tiers, through January 31, 2014. The

⁴ See Exchange Fee Schedule available at <http://www.directedge.com/Trading/EDGAFeeSchedule.aspx> (December 2, 2013).

⁵ See Exchange Rule 11.6.

⁶ See Securities Exchange Act Release No. 70794 (October 31, 2013), 78 FR 66789 (November 6, 2013) (SR-CTA-2013-05) (Order Approving the Eighteenth Substantive Amendment to the Second Restatement of the CTA Plan). See also Securities Exchange Act Release No. 70793 (October 31, 2013), 78 FR 66788 (November 6, 2013) (File No. S7-24-89) (Order Approving Amendment No. 30 to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis). See also Securities Exchange Act Release No. 70898 (November 19, 2013) (SR-NYSE-2013-75). See also announcements regarding December 9, 2013 implementation date, available at <https://cta.nyxdata.com/cta/popup/news/2385> and <http://www.nasdaqtrader.com/TraderNews.aspx?id=uva2013-11>. If the inclusion of odd lot transactions in the consolidated tape is delayed to a date after December 9, 2013, the manner of inclusion or exclusion of odd lot transactions described in this proposal for purposes of billing on the Exchange would similarly take effect on such later date.

proposal would allow Members additional time to adjust to the potential impact of including odd lot transactions within consolidated volumes. Odd lots will continue to be included in each Member's average daily trading volume ("ADV") as they are today.

The Exchange provides Members with the opportunity to qualify for an Add Volume pricing tier based on its [sic] level of activity during a particular month. Each tier provides a Member with lower pricing to add liquidity on the Exchange. Each tier uses a specific percentage of TCV during the billing cycle as a threshold that a Member must meet or exceed to qualify for a particular tier. For example, to qualify for the Volume Tier 1 and be charged a reduced fee of \$0.0003 per share, a Member must add more than 1% of the TCV in ADV on EDGA, including non-displayed orders that add liquidity on a daily basis, measured monthly. To qualify for Volume Tier 2 and also be charged a reduced fee of \$0.0003 per share, a Member must add more than 0.25% of the TCV on EDGA, including non-displayed orders that add liquidity; and remove more than 0.25% of the TCV in ADV on a daily basis, measured monthly.

The proposal to exclude odd lot transactions from the TCV calculation is intended to allow Members additional time to adjust to the potential impact of including odd lot transactions within consolidated volumes. The proposed rule change is not intended to address any other issues and the Exchange is not aware of any problems that Members would have in complying with the proposed rule change.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on December 9, 2013. The amendments would be effective through January 31, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁷ in general, and furthers the objectives of Section 6(b)(4),⁸ 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 its proposal to exclude odd lot transactions from its TCV calculation is reasonable because it allows the Exchange to maintain, albeit temporarily, the status quo when

measuring a Member's activity and whether they [sic] satisfy the criteria necessary to achieve preferred pricing under each pricing tier. Absent this change, the denominator of tier threshold calculation (*i.e.*, TCV) would increase immediately when odd lot transactions begin to be reported to the consolidated tape and a Member would need to immediately increase their [sic] own activity (*i.e.*, the numerator) to continue to qualify for the tier. However, such an increase in the Member's activity would not result in a corresponding benefit to the Member because the Exchange is not proposing to change the tier rates. The Exchange anticipates that the eventual impact on determining tier qualifications would be minimal when odd lot transactions begin to be included in the TCV. Nonetheless, the Exchange believes that it is reasonable to provide Members with a limited transition period to adapt to such impact.

The proposed rule change is also equitable and not unfairly discriminatory because it would apply to all Members uniformly. In addition, the inclusion of odd lots in the TCV calculation would occur for all Members on February 1, 2014, after the same nearly two month transition period.

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. The Exchange does not believe that this change represent [sic] a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. The proposed rule change is designed to provide consistency to Members by allowing the Exchange to maintain, albeit temporarily, the status quo when measuring a Member's activity and whether they [sic] satisfy the criteria necessary to achieve preferred pricing under each pricing tier. The proposal to exclude odd lot transactions from the TCV calculation is intended to allow Members additional time to adjust to the potential impact of including odd lot transactions within consolidated volumes. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

This proposed rule change is also designed to maintain intermarket competition by eliminating the potential for Members to immediately fail to qualify for a tier due to the inclusion of

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

odd lot transactions in the consolidated tape beginning December 9, 2013. Other exchanges have also announced their intention of [sic] filed proposed rule changes to exclude odd lot transactions from the consolidated volume calculations from December 9, 2013 thru [sic] January 31, 2014.⁹ The proposal is also designed to maintain intramarket completion by maintaining consistent calculations amongst exchanges.

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)(A) of the Act¹⁰ and Rule 19b-4(f)(2)¹¹ 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 proposal 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-2013-37 on the subject line.

⁹ See File No. SR-NYSE-2013-78 (proposal by the New York Stock Exchange, Inc. ("NYSE") to amend its price list to exclude odd lot transactions from its consolidated average daily trading volume calculations thru January 31, 2014); see also, BATS Exchange, Inc. and BATS-Y Exchange, Inc. Tier Calculation Update available at http://cdn.batstrading.com/resources/fee_schedule/BATS-BZX-Exchange-and-BYX-Exchange-Tier-Calculation-Update-Effective-December-9-2013.pdf (announcing intention to exclude odd lot transactions from its consolidated average daily trading volume calculations thru [sic] January 31, 2014).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4 (f)(2).

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-2013-37. 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-2013-37 and should be submitted on or before January 8, 2014.

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

Kevin M. O'Neill,

Deputy Secretary.

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¹² 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71066; File No. SR-ISE-2013-66]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Change Procedure for Processing Fingerprints Under Existing Rule 1408

December 12, 2013.

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 December 4, 2013, 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, 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 change its procedure for processing fingerprints under its existing Rule 1408. The text of the proposed rule change is available on the Exchange's Internet Web site at <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 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 Exchange proposes to change the procedure under its existing Rule 1408

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.