

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

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Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73780; File No. SR-EDGX-2014-28]

### Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 13.9 of EDGX Exchange, Inc. Related to Communication and Routing Service Known as ConnectEdge

December 8, 2014.

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 November 25, 2014, EDGX Exchange, Inc. (the "Exchange" or "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 Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. 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 filed a proposal to amend Rule 13.9 related to a communication and routing service known as ConnectEdge. The Exchange also proposes to add fees related to ConnectEdge to its fee schedule.

The text of the proposed rule change is available at the Exchange's 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 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts 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 amend Rule 13.9 related to a communication and routing service known as ConnectEdge. The Exchange also proposes to add fees related to ConnectEdge to its fee schedule. The Exchange currently offers and proposes to continue offering ConnectEdge on a voluntary basis in a capacity similar to a vendor. ConnectEdge is a communication service that provides Members<sup>5</sup> an additional means to receive market data from and route orders to any destination connected to Exchange's network. ConnectEdge does not provide any advantage to subscribers for connecting to the Exchange's affiliates<sup>6</sup> as compared to other method of connectivity available to subscribers. The servers of the Member need not be located in the same facilities as the Exchange in order to subscribe to ConnectEdge. Members may also seek to utilize ConnectEdge in the event of a market disruption where other alternative connection methods become unavailable.

Specifically, this service allows Members to route orders to other exchanges and market centers that are connected to the Exchange's network. This communications or routing service would not effect trade executions and would not report trades to the relevant Securities Information Processor. An order sent via the service does not pass through the Exchange's matching engine

<sup>5</sup> 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).

<sup>6</sup> The Exchange's affiliated exchanges are EDGA Exchange, Inc. ("EDGA"), BATS Exchange, Inc. ("BATS"), and BATS Y-Exchange, Inc. ("BYX").

before going to a market center outside of the Exchange (*i.e.*, a participant could choose to route an order directly to any market center on the Exchange's network). A participant would be responsible for identifying the appropriate destination for any orders sent through the service and for ensuring that it had authority to access the selected destination; the Exchange would merely provide the connectivity by which orders (and associated messages) could be routed by a participant to a destination and from the destination back to the participant.<sup>7</sup>

The Exchange will charge a monthly connectivity fee to Members utilizing ConnectEdge to route orders to other exchanges and broker-dealers that are connected to the Exchange's network. The amount of the connectivity fee varies based solely on the bandwidth selected by the Member. Specifically, the Exchange proposes to charge \$350 for 1 Mb, \$700 for 5 Mb, \$950 for 10 Mb, \$1,500 for 25 Mb, \$2,500 for 50 Mb, and \$3,500 for 100 Mb.

ConnectEdge would also allow participants to receive market data feeds from the exchanges connected to the Exchange's network. In such case, the Member would pay the Exchange a connectivity fee, which varies and is based solely on the amount of bandwidth required to transmit the selected data product to the Member. The proposed connectivity fees are set forth in the Exhibit 5 attached hereto and range from \$100 to \$3,500 based on the market data product the vendor selects. The Members would pay any fees charged by the exchange providing the market data feed directly to that exchange.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of Section 6(b) of the Act,<sup>8</sup> in general, and Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system, and, in general, protects investors and the public interest. Specifically, the

<sup>7</sup> This service is an alternative to a service that the Exchange already provides to its Members—current order-sending Members route orders through access provided by the Exchange to the Exchange that either check the Exchange for available liquidity and then route to other destinations or, in certain circumstances, bypass the Exchange and route to other destinations. See Exchange Rule 11.9(b)(2) (setting forth routing options whereby Members may select their orders be routed to other market centers).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>13</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.

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

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

proposal is consistent with Section 6(b)(5) of the Act,<sup>10</sup> in that it provides Members an alternative means to receive market data from and route orders to any destination connected to the Exchange's network, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. In addition, ConnectEdge removes impediments to and perfects the mechanism of a free and open market and a national market system because, in the event of a market disruption, Members would be able to utilize ConnectEdge to connect to other market centers where other alternative connection methods become unavailable. The proposed rule change is also similar to a communication and routing service implemented by the Chicago Stock Exchange, Inc. ("CHX").<sup>11</sup> The proposed rule change will also not permit unfair discrimination among customers, brokers, or dealers because ConnectEdge will be available to all of the Exchange's customers on an equivalent basis regardless of whether the servers of the Member are located in the same facilities as the Exchange.

The Exchange also believes that its proposal is consistent with Section 6(b)(4) of the Act,<sup>12</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities. First, the Exchange will charge a connectivity fee to Members utilizing ConnectEdge to route orders to other exchanges and market centers that are connected to the Exchange's network, which varies based solely on the amount of bandwidth selected by the Member. The amounts of the connectivity fees are also reasonable as compared to similar fees charged by other exchanges. For purposes of order routing, the Exchange proposes to charge \$350 for 1 Mb, \$700 for 5 Mb, \$950 for 10 Mb, \$1,500 for 25 Mb, \$2,500 for 50 Mb, and \$3,500 for 100 Mb. The New York Stock Exchange, Inc. ("NYSE") currently charges \$300 for 1 Mb, \$700 for 5 Mb, \$900 for 10 Mb, \$1,500 for 25 Mb, \$2,000 for 50 Mb, and

\$2,600 for 100 Mb.<sup>13</sup> The Exchange notes that, overall, the connectivity fee for routing of orders to other market centers proposed by the Exchange is either similar to or less than that charged by the NYSE.

Second, with regard to utilizing ConnectEdge to receive market data products from other exchanges, the Exchange would only charge participants a connectivity fee, the amount of which is based solely on the amount of bandwidth required to transmit that specific data product to the Member. The amounts of the connectivity fees are also reasonable as compared to similar fees charged by other exchanges. For example, for market data connectivity, the Nasdaq Stock Market LLC ("Nasdaq") charges \$1,412 per month for CQS/CTS data feed, and the Exchange proposes to charge \$1,000 per month connectivity for CQS/CTS data feed.<sup>14</sup> The Exchange notes that, overall, the connectivity fee for receipt of other market centers' data feed proposed by the Exchange is either similar to or less than that charged by Nasdaq.

The participants would pay any fees: (i) Charged by the exchange providing the market data feed directly to that exchange (ii) charged by a market center to which they routed an order and an execution occurred directly to that market center. The Exchange itself would not charge any additional fees.<sup>15</sup> ConnectEdge is offered and purchased on a voluntary basis, in that neither the Exchange nor Members are required by any rule or regulation to make this product available. Accordingly, Members can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged.

Moreover, the Exchange believes the proposed fees are reasonable and equitable because they are based on the Exchange's costs to cover hardware, installation, testing and connection, as well as expenses involved in maintaining and managing the service. The proposed fees allow the Exchange to recoup these costs, while providing Members with an alternative means to connect to other exchange and market centers. The Exchange believes that the proposed fees are reasonable and equitable in that

they reflect the costs and the benefit of providing alternative connectivity.

Lastly, the Exchange also believes that the proposed amendments to its fee schedule are non-discriminatory because they will apply uniformly to all Members. All Members that voluntarily select various service options will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the service. Further, the benefits of selecting such services are the same for all Members, irrespective of whether their servers are located in the same facility as the Exchange.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal will promote competition by the Exchange offering a service similar to those offered by the CHX, Nasdaq and NYSE. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the proposed rule change is designed to provide Members with an alternative means to access other market centers if they chose or in the event of a market disruption where other alternative connection methods become unavailable. Therefore, the Exchange does not believe the proposed rule change will have any effect on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup> Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it

<sup>10</sup> *Id.*

<sup>11</sup> See Securities Exchange Act Release No. 54846 (November 30, 2006), 71 FR 71003 (December 7, 2006) (SR-CHX-2006-34) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Implementation of a Communication and Routing Service).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> See NYSE's SFTI Americas Product and Service List available at <http://www.nyxdata.com/docs/connectivity>.

<sup>14</sup> See Nasdaq Rule 7034 (setting forth Nasdaq's connectivity fees for receipt of third party market data products).

<sup>15</sup> The Exchange's rules and fees would not address the fees or manner of operation of any destination to which the participant asked that an order be routed.

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

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

was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.<sup>18</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) 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 asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay would permit the Exchange to provide Members with an alternative means to access other market centers particularly in the event of a market disruption. In addition, the Exchange represents that ConnectEdge does not provide any advantage to subscribers for connecting to the Exchange's affiliates<sup>19</sup> as compared to other methods of connectivity available to subscribers. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>20</sup> The Commission hereby grants the Exchange's request and designates the proposal operative upon filing.

At any time within 60 days of the filing of the 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

<sup>18</sup> In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>19</sup> See *supra* note 6.

<sup>20</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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](mailto:rule-comments@sec.gov). Please include File Number SR-EDGX-2014-28 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-EDGX-2014-28. 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-EDGX-2014-28 and should be submitted on or before January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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<sup>21</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF STATE

[Public Notice 8966]

### Notice of Proposal To Extend the Agreement Between the Government of United States of America and the Government of the Republic of Nicaragua Concerning the Imposition of Import Restrictions on Archaeological Material From the Pre-Hispanic Cultures of the Republic of Nicaragua

The Government of the Republic of Nicaragua has informed the Government of the United States of America of its interest in an extension of the *Agreement Between the Government of United States of America and the Government of the Republic of Nicaragua Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures of the Republic of Nicaragua* ("Agreement").

Pursuant to the authority vested in the Assistant Secretary of State for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this Agreement is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of the Agreement, the Designated List of restricted categories of material, and related information can be found at the following Web site: <http://culturalheritage.state.gov>.

Dated: November 25, 2014.

**Evan Ryan,**

*Assistant Secretary, Bureau of Educational and Cultural Affairs, U.S. Department of State.*

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## DEPARTMENT OF STATE

[Public Notice 8967; Docket No. DOS-2014-0027]

### Notice of Meeting of the Cultural Property Advisory Committee

There will be a meeting of the Cultural Property Advisory Committee January 21-23, 2015 at the U.S. Department of State, Annex 5, 2200 C Street NW., Washington, DC. Portions of this meeting will be closed to the public, as discussed below.

During the closed portion of the meeting, the Committee will review the proposal to extend the *Agreement Between the Government of United*