

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-67499; File No. SR-EDGX-2012-27)

July 25, 2012

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGX Rule 11.13 to extend the operation of a pilot program pursuant to the Rule until February 4, 2013

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 July 18, 2012, 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.

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

The Exchange proposes to amend EDGX Rule 11.13 to extend the operation of a pilot pursuant to the Rule (the "Pilot") until February 4, 2013. The text of the proposed rule change is available on the Exchange's website at [www.directedge.com](http://www.directedge.com), at the Exchange's principal office, on the Commission's website at [www.sec.gov](http://www.sec.gov), 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 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

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

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

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 this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions, Rule 11.13, through February 4, 2013.

Background

The rule, explained in further detail below, was initially approved to operate under a Pilot program set to expire on December 10, 2010.<sup>3</sup> Then, it was subsequently extended by the Exchange to April 11, 2011.<sup>4</sup> Then, it was further extended by the Exchange through the earlier of August 11, 2011 or the date on which a limit up / limit down mechanism to address extraordinary market volatility, if adopted, applies.<sup>5</sup> Then, it was further extended through January 31, 2012,<sup>6</sup> and again extended through July 31, 2012.<sup>7</sup>

On September 10, 2010, the Commission approved, on a Pilot basis, changes to EDGX Rule 11.13 to provide for uniform treatment: (1) of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that

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<sup>3</sup> See Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-EDGX-2010-03).

<sup>4</sup> See Securities Exchange Act Release No. 63515 (December 10, 2010), 75 FR 78319 (December 15, 2010) (SR-EDGX-2010-23).

<sup>5</sup> See Securities Exchange Act Release No. 64229 (April 7, 2011), 76 FR 20738 (April 13, 2011) (SR-EDGX-2011-11).

<sup>6</sup> See Securities Exchange Act Release No. 65073 (August 9, 2011), 76 FR 50512 (August 15, 2011) (SR-EDGX-2011-24).

<sup>7</sup> See Securities Exchange Act Release No. 66222 (January 24, 2012), 77 FR 4595 (January 30, 2012) (EDGX-2012-02).

result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange.<sup>8</sup> The Exchange also adopted additional changes to Rule 11.13 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11.13.<sup>9</sup> The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should be approved to continue on a Pilot basis through February 4, 2013, the implementation date of the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Securities Exchange Act of 1934 (the “Limit Up-Limit Down Plan”).<sup>10</sup>

## 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,<sup>11</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 Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. More specifically, the Exchange believes that the extension of the Pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades

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<sup>8</sup> See Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-EDGX-2010-03).

<sup>9</sup> Id.

<sup>10</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</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 prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>15</sup>

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). 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.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii)<sup>17</sup> the Commission may 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.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.<sup>18</sup>

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.

#### 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

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<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>18</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).

- Send an E-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-EDGX-2012-27 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-EDGX-2012-27. 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 website (<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 inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for website viewing and printing 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-2012-27 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

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

Kevin M. O'Neill  
Deputy Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).