

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67137; File No. SR-EDGA-2012-21)

June 5, 2012

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Temporarily Suspend the Requirements of EDGA Rule 2.6

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 June 5, 2012, EDGA Exchange, Inc. (the “Exchange” or “EDGA”) 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 is proposing to temporarily suspend the requirements of EDGA Rule 2.6 and related EDGA Rules concerning the approval of new Members in order to admit Apex Clearing Corporation (“Apex Clearing”), f/k/a Ridge Clearing and Outsourcing Solutions, Inc. (“Ridge”), as a Member of EDGA, subject to Apex Clearing complying with the Exchange’s Membership qualification rules within 30 calendar days of the effective date of this filing. The Exchange is also proposing to accept Apex Clearing’s assumption of all of the existing clearing agreements and arrangements currently in effect between Penson Financial Services, Inc. (“PFSI”) and other EDGA Members by execution of a global agreement thereto. The text of the proposed rule change is available on the Exchange’s website at www.directedge.com, at the Exchange’s principal office, and at the Public Reference Room of the Commission.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to temporarily suspend the requirements of EDGA Rule 2.6 and related rules governing the qualification and admission of Members in order to immediately approve Apex Clearing as an EDGA Member. The Exchange proposes this temporary suspension on an expedited basis to ensure that Apex Clearing can continue the clearing operations of PFSI without unnecessary disruption, which could have a significant collateral impact on a number of other Members. The proposed temporary suspension is contingent upon Apex Clearing having complied with all of the Exchange's Membership qualification requirements within 30 calendar days of the effective date of this filing.

On May 31, 2012, Apex Clearing Holdings, LLC ("Apex Holdings"), Apex Clearing Solutions, LLC, Broadridge Financial Solutions, Inc. ("Broadridge"), PFSI and Penson Worldwide, Inc. ("PWI") (together, the "Parties") consummated a transaction resulting in a change in ownership of Apex Clearing.³ Broadridge, Apex Holdings, PWI and PFSI each made

³ Prior to the Transaction, Apex Clearing's name was Ridge Clearing & Outsourcing Solutions, Inc. Prior to the transaction, Ridge Clearing & Outsourcing Solutions, Inc. contributed its outsourcing operations and all associated personnel and systems to its

capital investments in Apex Holdings, the holding company parent of Apex Clearing. PFSI also assigned all of its U.S. clearing contracts and all customer and introducing broker proprietary accounts along with key personnel to Apex Clearing (the “Transferring Accounts”).⁴

As a result of the Transaction, Apex Clearing, which is not currently an EDGA Member, will provide the clearing services and execution services currently provided to the Transferring Accounts by PFSI. On May 31, 2012, Apex Clearing submitted an application to be admitted as an EDGA Member. However because of the expedited nature of the transaction, Apex Clearing was unable to fully comply in a timely manner with EDGA Rule 2.6 and related Membership rules. Because of the need for seamless continuity with respect to the Transferring Accounts, Apex Clearing has requested that the Exchange temporarily suspend its Membership qualification rules in order to enable Apex Clearing’s approval as a Member on an expedited basis. Pursuant to its request, Apex Clearing has represented that it will fully comply with the Exchange’s Membership qualification requirements within 30 calendar days of the effective date of this filing.

EDGA Rule 2.6 establishes the requirements for applications for Membership with the Exchange and requires prospective Members to submit such information as the Exchange may require.

Among other things, to be approved as an EDGA Member, an applicant must:

- Provide the Exchange with an agreement to abide by, comply with, and adhere to the provisions of the Exchange’s Certificate of Incorporation, its By-Laws, the Exchange’s Rules, the policies, interpretations and guidelines of the Exchange,

affiliated entity, Broadridge Securities Processing Solutions, LLC (“BSPS”) where it will continue to provide operations support and outsourcing services to a number of broker-dealers, including Apex Clearing.

⁴ See Penson Worldwide, Inc. Form 8-K dated May 31, 2012.

and all orders and decisions of the Exchange's Board and penalties imposed by the Board, and any duly authorized committee;⁵

- Agree to pay such dues, assessments, and other charges in the manner and amount as shall from time to time be fixed by the Exchange;⁶
- Agree to maintain and make available to the Exchange, its authorized employees and its Board or any duly authorized committee such books and records as may be required to be maintained by the Commission or the Exchange's Rules;⁷
- Agree to supply other reasonable information with respect to the applicant as the Exchange may require in its Membership application (e.g., certificate of incorporation, by-laws, and other corporate documents);⁸ and
- Register all Authorized Traders with the Exchange⁹ in compliance with the Exchange's registration requirements as outlined in EDGA Rule 2.3(b) through (d).

In addition, the Exchange reviews whether the applicant meets applicable regulatory capital requirements and whether it has adopted controls and procedures to comply with Exchange Rules.

Due to the amount of information an applicant is required to provide and have completed prior to being admitted as a Member, the Member approval process generally takes several

⁵ EDGA Rule 2.6(a)(1).

⁶ EDGA Rule 2.6(a)(2).

⁷ EDGA Rule 2.6(a)(5).

⁸ EDGA Rule 2.6(a)(6).

⁹ EDGA Rule 2.3(b).

weeks to complete. The length of time varies based on the timing of the applicant's responses to requests for information and documentation.

As proposed, Apex Clearing will continue the clearing and certain other operations of PSFI as of June 6, 2012. In order to avoid interruption of the services PSFI currently provides to other Exchange Members, EDGA believes that Apex Clearing should be approved immediately as an EDGA Member. The Exchange notes that Apex Clearing is already a registered broker-dealer and FINRA member, which are prerequisites for becoming an EDGA Member.¹⁰

The Exchange therefore proposes to temporarily suspend EDGA Rule 2.6 and related Membership rules (Rules 2.3 and 2.5), and immediately approve Apex Clearing and its associated persons as a Member. As proposed, this temporary suspension is contingent upon:

- Apex Clearing providing the Exchange with sufficient information to confirm that Apex Clearing will satisfy its capital requirements as an EDGA Member; and
- Within 30 calendar days of the effective date of this rule filing, Apex Clearing and its associated persons shall have complied with the Exchange's Member qualification requirements as set forth in EDGA Rules 2.3, 2.5, and 2.6.

As proposed, if Apex Clearing does not comply with all applicable EDGA Member qualification requirements within 30 calendar days of the effective date of this filing, its status as an approved EDGA Member will no longer be effective.

In addition, the Exchange proposes to permit Apex Clearing to assume all existing clearing agreements and arrangements currently in effect with other EDGA Members by execution of global agreements thereto. Apex Clearing has represented that it will provide notice of such assumption to impacted Members prior to the effective date thereof.

¹⁰ See EDGA Rule 2.5(a).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)¹¹ of the Act and furthers the objectives of Section 6(b)(5)¹² in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and to protect investors and the public interest. The Exchange believes that permitting the expeditious approval of Apex Clearing as an EDGA Member will avoid interruption of the services PSFI currently provides to other Exchange Members. Based on information and representations provided by Apex Clearing, a temporary suspension of certain EDGA membership rules is needed based on the expedited nature of the transaction to enable seamless continuity with respect to the Transferring Accounts. Consequently, EDGA believes that temporary suspension of its Member qualification requirements so that Apex Clearing can be approved immediately as an EDGA Member will help to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and is therefore consistent with the Act.

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

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

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴ 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 Act¹⁵ and Rule 19b-4(f)(6)(iii) thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ 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 five-day pre-filing requirement and the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission notes that the Exchange is proposing that certain of its rules relating to membership requirements be temporarily suspended so that Apex Clearing can be provisionally approved as an EDGA Member. The proposed relief does not exempt Apex Clearing from Exchange rule requirements governing Members. Apex Clearing would have a 30

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 Commission is waiving this five-day pre-filing requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

calendar day grace period within which to apply for and be approved under relevant Exchange rules. Moreover, the Commission believes that waiver of the 30-day operative delay is appropriate to ensure a smooth transition of PFSI operations to Apex Clearing. In particular, given the rapidity with which events have developed, waiver of the 30-day operative delay is necessary to avoid significant disruption to PFSI's existing customers and the market generally. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change as operative upon filing.¹⁹

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 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

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission has 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. Please include File Number SR-EDGA-2012-21 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-2012-21. 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 website 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-2012-21 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Kevin M. O'Neill
Deputy Secretary

²⁰ 17 CFR 200.30-3(a)(12).