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

Because the foregoing 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 was filed, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[15] 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 Exchange states that it expects to have the technological changes in place to support the proposed rule change by February 7, 2011, and believes that the benefits to market participants expected from the rule change should not be delayed. The Exchange believes that the rule change will reduce the messaging traffic that is now required to achieve the same result, and thus contribute to a more efficient public market.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposed routing strategy is similar to routing order types that were implemented by NYSE Arca.[16] Therefore, the Commission designates the proposal operative upon filing.[17]

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
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2011–004 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–NASDAQ–2011–004. 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 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 a.m. and 3 p.m. Copies of such 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–NASDAQ–2011–004 and should be submitted on or before March 3, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–2927 Filed 2–9–11; 8:45 am]

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[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) 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. NASDAQ has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] Securities Exchange Act Release No. 60256 (July 7, 2009), 74 FR 33489 (July 13, 2009) (SR–NYSEArca-2009–56).

[17] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63832; File No. SR–NSX–2011–01]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand Use of Self Trade Prevention Order Modifiers

February 3, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2011, National Stock Exchange, Inc. 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 Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal 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

National Stock Exchange, Inc. ("NSX®" or the "Exchange") proposes to allow the Self Trade Prevention order modifier to be used in conjunction with Zero Display Reserve Orders.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.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

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

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Self Trade Prevention ("STP") modifier under NSX Rule 11.11(c)(1) allows an ETP Holder to submit orders that may avoid trading against other orders of the same ETP Holder. Currently, Rule 11.11(c)(1)(D) excludes the use of the STP Modifier with Zero Display Reserve Orders (as defined in Rule 11.11(c)(2)(A)). In the instant rule change, the Exchange proposes to allow the use of the STP modifier with Zero Display Reserve Orders. The proposed changes are more fully discussed below.

Background

As more fully discussed in the rule filing pursuant to which this order modifier was introduced,[4] the "Self Trade Prevention" modifier is instructions designed to prevent two orders with the same designated Unique Identifier (as defined below) from executing against each other. The ETP Holder elects at the time an STP modified order is submitted whether the new order, an existing order (which must also have been submitted with an STP modifier) or both orders will be cancelled (or rejected, as applicable) instead of otherwise interacting.

Three STP modifiers can be set at one of three identification levels: the market participant level (pursuant to the "MPID"), the FIX session level (pursuant to "FIX Session ID") or an ETP Holder's user level (pursuant to the "Party ID") (any such identifier, a "Unique Identifier").[5] The STP instruction on the incoming order controls the interaction between two orders marked with STP modifiers from the same Unique Identifier. As further described in the rule filing pursuant to which the STP modifier became available,[6] the three STP modifiers are "STP Reject Newest ("STPN")", STP Cancel Oldest ("STPO"), and STP Cancel Both ("STPB").

An incoming order marked with the STPN modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The incoming order marked with the STPN modifier will be rejected. The resting order marked with an STP modifier, which otherwise would have interacted with the incoming order from the same Unique Identifier, will remain on the NSX Book. An incoming order marked with the STPO modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The resting order marked with the STP modifier, which otherwise would have interacted with the incoming order by the same Unique Identifier, will be cancelled. The incoming order marked with the STPO modifier will remain on the NSX Book. An incoming order marked with the STPB modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The entire size of both orders will be rejected or cancelled, as applicable.

STP modifiers are intended to prevent interaction between the same Unique Identifier. STP modifiers must be present on both the buy and the sell order in order to prevent a trade from occurring and to effect a cancel and/or reject instruction.

Use of STP Modifiers With Zero Display Reserve Orders

The instant rule change proposes to delete paragraph (D) of NSX Rule 11.11(c)(1), which currently prohibits the use of the STP Modifier in connection with Zero Display Reserve Orders. At the time of the implementation of Rule 11.11(c)(1), Zero Display Reserve Orders were made unavailable in connection with the use of the STP modifier because of technical challenges regarding identification of the "old" versus the "new" Zero Display Reserve Order for STP purposes under certain circumstances. Since that time, the Exchange has modified the system to recognize, for purposes of the STP modifier and consistent with all other order combinations, the original timestamp of a Zero Display Reserve Order as definitive for purposes of identifying the "old" versus "new" order in the context of STP modifiers.

The following are examples of how the STP modifier operates in connection with various types of Zero Display Reserve Orders.[7] Each example assumes the national best bid/offer is 20.00/20.10 and that ETP Holder A's STP modifiers pertain to the same Unique Identifier.

Example 1: Interaction of Two Zero Display Reserve Orders

ETP Holder A enters a Zero Display Reserve Order to buy 500 shares @ 20.05 with an STP—Cancel Old ("STPO") modifier. Thereafter, ETP Holder A enters a Zero Display Reserve Order to sell 500 shares @ 20.05, also with an STPO modifier.

Example 1 Result: The first order is cancelled because the STP instruction on the incoming order controls the interaction between two orders marked with STP modifiers from the same Unique Identifier. The second order to sell 500 @ 20.05 will remain on the book.

Example 2: Interaction of a Zero Display Reserve Order (Pegged to Primary) and a Limit Order

ETP Holder A enters a Zero Display Reserve Order to sell, pegged to track the national best offer ("Pegged to Primary") under Rule 11.11(c)(2)(A) (which order will track the best offer), with an STPO modifier. Subsequently, ETP Holder A enters a limit order to buy for 20.05 with a STPO modifier. Thereafter, the market moves and the best offer becomes 20.05.

Example 2 Result: The first order is cancelled. The second order to buy for 20.05 will remain on the book.[8]

Example 3: Interaction of a Zero Display Reserve Order and a Zero Display Reserve Order (Midpoint Peg/Post Only)

ETP Holder A enters a Zero Display Reserve Order to buy 500 shares @ 20.09, with an STPO modifier. Thereafter, ETP Holder A enters a Zero Display Reserve Order (Midpoint Peg) under Rule 11.11(c)(2)(A) (which will track the midpoint), Post Only, to sell 500 shares, with an STPO modifier.

Example 3 Result: The Zero Display Reserve Order (Midpoint Peg/Post Only) will post to the book. The first order, the Zero Display Reserve Order to buy, will

[4] Securities Exchange Act Release No. 61781 (March 25, 2010), 75 FR 16540 (April 1, 2010) (SR–NSX–2010–02).

[5] Each ETP Holder is issued a unique MPID identifier that allows the Exchange to determine the ETP Holder for each order and/or execution. The FIX Session ID is unique to each physical connection between the Exchange and an ETP Holder. The Party ID identifies a unique user of an ETP Holder.

[6] *See supra,* footnote 3.

[7] Other examples of how orders with the STP modifier operate are contained in the Exchange's rule filing proposing approval of the modifier. *See supra,* footnote 3.

[8] Absent operation of the STP modifier, entry of the second order would have caused the Zero Display Reserve Order to 'flip' (*i.e.,* change from liquidity provider to a liquidity taker) and interact with the limit order bid; however, since both are STP orders of the same ETP Holder with the same Unique Identifiers, the two orders will not execute. Rather, the Zero Display Reserve Order, as the "old" (resting) order based on its earlier timestamp, will be cancelled back to the client consistent with the instructions of the new STP modified order.

be cancelled back to the client [9] consistent with the STPO instructions on the second order.

Example 4: Interaction of a Zero Display Reserve Order and a Zero Display Reserve Order (Market Peg/Post Only)

ETP Holder A enters a Zero Display Reserve Order to buy 500 shares @ 20.00, with an STPO modifier. Thereafter, ETP Holder A enters a Zero Display Reserve Order (Market Peg) under Rule 11.11(c)(2)(A) (which will track the bid), Post Only, to sell 500 shares, with an STPO modifier.

Example 4 Result: The Zero Display Reserve Order (Market Peg/Post Only) will post to the book. The first order, the Zero Display Reserve Order to buy, will be cancelled back to the client [10] consistent with the STPO instructions on the second order.

Additional Discussion

The Exchange believes that expanding the STP functionality to Zero Display Reserve Orders will allow ETP Holders to better manage order flow and prevent undesirable executions with themselves or the potential for (or the appearance of) "wash sales" that may occur as a result of the velocity of trading in today's high speed marketplace. Many ETP Holders have multiple connections into the Exchange due to capacity and speed related demands. Orders routed by the same ETP Holder via different connections or in different capacities may, in certain circumstances, trade against each other. The availability of STP modifiers for use in conjunction with Zero Display Reserve Orders provide ETP Holders the opportunity to prevent these potentially undesirable trades occurring under the same Unique Identifier on both the buy and sell side of the execution.

The Exchange notes that the STP modifiers do not alleviate, or otherwise exempt, broker-dealers from their best execution obligations. Broker-dealers using the STP modifiers on agency orders will be obligated to execute those agency orders at the same price, or a better price than they would have received had the orders been executed on the Exchange. Finally, the Exchange notes that expanding the STP modifier to use with Zero Display Reserve Orders will streamline certain regulatory functions by reducing inadvertent self-trade executions that would otherwise be captured by Exchange generated wash trading surveillance reports when orders are executed under the same Unique Identifier. The Exchange has developed a surveillance program to identify the use of the STP modifier on agency orders, in connection with Zero Display Reserve Orders and otherwise, and to surveil such orders for potential misuse. For these reasons, the Exchange believes the use of STP modifiers with the Zero Display Reserve Order offers ETP Holders enhanced order processing functionality that may prevent potentially undesirable executions without negatively impacting broker-dealer best execution obligations.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) [12] in particular in that it is designed, among other things, 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 proposed rule change advances these objectives by making available to ETP Holders that use Zero Display Reserve Orders an order modifier that is currently in use elsewhere within the national market system [13] and by allowing firms to better manage order flow and prevent undesirable executions against themselves.

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 Exchange 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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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) [14] of the Act and Rule 19b–4(f)(6) thereunder.[15]

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 e-mail to *rule-comments@sec.gov.* Please include File Number SR–NSX–2011–01 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–NSX–2011–01. 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,[16] 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

[9] Absent operation of the STP modifier, the first order will flip and execute against the second order.

[10] Absent operation of the STP modifier, the first order will flip and execute against the second order.

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

[12] 15 U.S.C. 78f(b)(4).

[13] *See* BATS Rule 11.9(f)(1), (2) and (4).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6) 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 Exchange has satisfied this requirement. *Id.*

[16] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov/rules/sro.shtml.*

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, on official business days between the hours of 10 a.m. and 3 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–NSX–2011–01 and should be submitted on or before March 3, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–2925 Filed 2–9–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63821; File No. SR–EDGX–2011–02]

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

February 2, 2011.

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 25, 2011, 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, 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 EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.com.*

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

In SR–EDGX–2011–01,[4] the Exchange filed for immediate effectiveness a rule filing to amend Rule 11.9 to add its routing strategies, which were contained in its fee schedule, to the rule and to introduce additional routing strategies to the rule. Two of those strategies that the Exchange added to Rules 11.9(b)(3)(q) and (r) were the SWPA/SWPB routing strategies. Under the SWPA strategy, an order would check the System for available shares and then would be sent to Protected Quotations and only for displayed size. Under this strategy, orders would not have to contain sufficient size to execute against *all* Protected Quotations (emphasis added). If any shares remain unexecuted, such remainder will be cancelled back to the User. Under the SWPB routing strategy, an order would check the System for available shares and then is sent to Protected Quotations and only for displayed size. Under this strategy, orders would have to contain sufficient size to execute against all Protected Quotations. The entire SWPB order will be cancelled back to the User immediately if at the time of entry there is insufficient quantity in the SWPB order to fulfill the displayed size of all Protected Quotations.

In this filing, the Exchange proposes to add the corresponding flag for the use of the SWPA/SWPB strategies, SW, to its fee schedule and assign it a fee of $0.0031 per share for removal of liquidity from all market centers except from the New York Stock Exchange (NYSE). For any SWPA/SWPB orders that remove liquidity from the NYSE, the Exchange will continue to assign Flag D and charge a fee of $0.0023 per share. This is clarified in proposed footnote 8 to the fee schedule. The lower fee charged for removing liquidity from the NYSE is consistent with the processing of similar routing strategies by EDGX's competitors. Secondly, of the major market centers, the NYSE fees for removing liquidity itself are lower, and EDGX is thus able to pass back such lower rates to its Members.

EDGX Exchange proposes to implement these amendments to the Exchange fee schedule on January 25, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[5] in general, and furthers the objectives of Section 6(b)(4),[6] 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 fee of $0.0031 per share is an equitable allocation of reasonable dues, fees, and other charges in that this order type is limited in its interaction with other Member orders as it only executes to the extent a Member order is at the Protected Quotation. As a result, compared to other routing strategies that always sweep the EDGX book before routing out, such as ROBA (fee of $0.0025 per share), the SWPA/SWPB fees are higher. Secondly, the fee is equitable when compared to other similar type strategies of EDGX's competitors. As noted in SR–EDGX–2011–01, the SWPA/SWPB routing strategies are based on Nasdaq's MOPP strategy and BATS Parallel T routing strategy.[7] Nasdaq charges $0.0035 per share for MOPP orders and BATS charges $0.0033 per share for such orders. EDGX's rate is even more competitive than these. The Exchange also notes that it operates in a highly

[17] 17 CFR 200.30–3(a)(12).

[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.

[4] *See* SR–EDGX–2011–01 (January 21, 2011).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] *See, e.g.,* NASDAQ Rule 4758 and BATS Rule 11.13.