

time during a calendar year.<sup>18</sup> All IXCMM trading licenses will expire at the end of the calendar year in which they are issued but, upon request by a PMM or CMM, will be renewed for subsequent years on an annual basis.<sup>19</sup>

**IXMM Duties and Privileges.** By amending ISE Rule 802(b) to permit the allocation of Eligible Index Options, subject to new Rule 2013, ISE is subjecting market makers in Eligible Index Options to the obligations imposed on Exchange market makers under Chapter 8 of the Exchange's rules. Accordingly, once an IXPMM obtains a trading license in an Eligible Index Option, the IXPMM will have all of the responsibilities and privileges of a PMM under the Exchange's rules.<sup>20</sup> Similarly, once an IXCMM obtains a trading license in an Eligible Index Option, the IXCMM will have all the responsibilities and privileges under the Exchange's rules.

After an IXPMM has purchased a trading license, the IXPMM may terminate its status as IXPMM in an index option if the IXPMM is unable to meet its obligations, provided the IXPMM gives at least 60 days prior written notice to the Exchange of such termination. In the event the Exchange is unable to re-allocate the IXPMM's index option product within the notice period and the index option product is *singly listed* on ISE, then the IXPMM will be required to continue to fulfill its obligations in that product until all open interest has been closed. An IXCMM may terminate its trading license prior to its scheduled expiration by providing at least 10 days prior written notice to the Exchange.

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,<sup>21</sup> which requires, among other things, that the rules of a national securities exchange be designed 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 Commission believes that the provisions governing the two new classes of market makers that will be permitted to trade Eligible Index Options and Legacy Index Options on the Exchange, IXPMMs and IXCMMs, are consistent with the Act. The Commission notes that IXPMMs and IXCMMs will be subject to identical obligations that correspond to the market making obligations applicable to First Market PMMs and CMMs, respectively.<sup>22</sup> The Commission notes that, to obtain a trading license, IXPMMs will be required to provide the Exchange with market quality commitments<sup>23</sup> and, if an IXPMM continuously fails to meet its stated market quality commitments, the Exchange may terminate its IXPMM allocation.<sup>24</sup>

The Commission believes that the procedures under which the Exchange proposes to offer IXMM licenses are reasonably designed to award such allocations in a fair and reasonable manner. In particular, the Commission believes that provisions governing IXCMM trading licenses are designed to ensure that market maker trading licenses will be widely available because the Exchange will make an unlimited amount of IXCMM licenses available for purchase by members who are not PMMs or CMMs on the Exchange's First Market.<sup>25</sup> In addition, the requirement that bidders provide market quality commitment in addition to their bid for an IXPMM allocation will allow the Exchange to grant IXPMM trading licenses in an objective manner without awarding a trading license solely based on the highest bid.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>26</sup> that the proposed rule change (SR-ISE-2011-04) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

<sup>22</sup> See *supra* note 20.

<sup>23</sup> See new ISE Rule 2013(e)(3).

<sup>24</sup> See new ISE Rule 2013(e)(4).

<sup>25</sup> See new ISE Rule 2013(f).

<sup>26</sup> 15 U.S.C. 78s(b)(2).

<sup>27</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64095; File No. SR-EDGX-2011-06]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by EDGX Exchange, Inc. To Delete the Description of and All References to Step-Up Orders in EDGX Rules

March 18, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 10, 2011, EDGX Exchange, Inc. ("EDGX" or "Exchange") 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, and is approving the proposal on an accelerated basis.

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

The Exchange proposes to amend its Rules 11.5(c)(11) and Rule 11.9(b)(1)(C) to delete the description of and all references to Step-Up orders. The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange's Web site at <http://www.directedge.com>, at the Exchange's principal office, 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 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.

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

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

<sup>18</sup> IXCMM trading licenses sold during a calendar year will be prorated to reflect the number of trading days in the year. See new ISE Rule 2013(f)(2).

<sup>19</sup> See Notice, *supra* note 3, 76 FR at 5414.

<sup>20</sup> For example, IXPMMs will enjoy privileges that include, among other things, participation rights and small order execution preference while accepting responsibilities that include, among other things, the obligation to provide continuous quotations in an Eligible Index Option for which it has been allocated, to conducting the opening rotation on a daily basis for as long as the IXPMM retains an allocation in an Eligible Index Option.

<sup>21</sup> 15 U.S.C. 78f(b)(5). 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).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

EDGX filed with the Securities and Exchange Commission ("Commission") a proposed rule change to amend EDGX Rule 11.9 regarding the description of the Step-up order type and modify how Step-up orders would be processed pursuant to Exchange Rule 11.9.<sup>3</sup>

Exchange Rule 11.5(c)(11) defines a Step-up order as a "market or limit order with the instruction that the System display the order to Users at or within the NBBO price pursuant to Rule 11.9(b)(1)(C)." Exchange Rule 11.9(b)(1)(C), in turn, states that orders shall be displayed to Users<sup>4</sup> in a manner that is separately identifiable from other Exchange orders, at or within the NBBO price for a period of time not to exceed five hundred milliseconds, as determined by the Exchange.

In light of the Commission's order instituting proceedings to determine whether to disapprove the above-referenced proposed rule change,<sup>5</sup> the Exchange withdrew the filing mentioned above on February 25, 2011 and ceased offering the Step-up order as of the close of business on February 28, 2011.

The Exchange now proposes to delete rules that reference Step-up orders. Therefore, it is proposing to delete Rules 11.5(c)(11) and 11.9(b)(1)(C). As a result, conforming changes have been made to re-number current Rules 11.5(c)(12)–(14) as Rules 11.5(c)(11)–(13). In addition, a conforming change is proposed to re-number the reference to Discretionary Orders, as set forth in Rule 11.8(a)(2)(D).

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act of,<sup>6</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. Since the Step-up order type was an enhanced functionality offered by the Exchange not required under the Act, the Exchange would like to remove references to it from its rulebook.

*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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve or disapprove such proposed rule change; or
- (b) Institute proceedings to determine whether the proposed rule change should be 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
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGX-2011-06 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-2011-06. 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 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 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 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-EDGX-2011-06 and should be submitted on or before April 13, 2011.

**V. Commission's Findings and Order Granting Accelerated Approval of a Proposed Rule Change**

After careful consideration, 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.<sup>7</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market a national market system, and in general, to protect investors and

<sup>3</sup> See Securities Exchange Act Release No. 63336 (November 18, 2010, 75 FR 71781. Amendment No. 2 replaced in its entirety the original filing, SR-EDGX-2010-17 (November 8, 2010) and partial Amendment No. 1 (November 23, 2010). See Securities Exchange Act Release No. 63574 (December 17, 2010), 75 FR 80876.

<sup>4</sup> Exchange Rule 1.5(cc) defines a User as any "any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3."

<sup>5</sup> See Securities Exchange Act Release No. 63930 (February 18, 2011), 76 FR 10414 (SR-EDGX-2010-17).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

the public interest. The Commission agrees with the Exchange that the Step-Up order type is a functionality that is not required under the Act.<sup>9</sup>

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> for approving the proposed rule change prior to the 30th day after publication of notice in the **Federal Register**. Accelerated approval will allow the Exchange to delete references to an order type in its rules that is not required under the Act and that the Exchange has determined to discontinue.

## VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-EDGX-2011-06) is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011-6837 Filed 3-22-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64094; File No. SR-EDGA-2011-07]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by EDGA Exchange, Inc. To Delete the Description of and All References to Step-Up Orders in EDGA Rules

March 18, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 10, 2011, EDGA Exchange, Inc. ("EDGA" or "Exchange") 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, and is approving the proposal on an accelerated basis.

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

The Exchange proposes to amend its Rules 11.5(c)(11) and Rule 11.9(b)(1)(C) to delete the description of and all references to Step-Up orders. The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange's Web site at <http://www.directedge.com>, at the Exchange's principal office, 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 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

EDGA filed with the Securities and Exchange Commission ("Commission") a proposed rule change to amend EDGA Rule 11.9 regarding the description of the Step-up order type and modify how Step-up orders would be processed pursuant to Exchange Rule 11.9.<sup>3</sup>

Exchange Rule 11.5(c)(11) defines a Step-up order as a "market or limit order with the instruction that the System display the order to Users at or within the NBBO price pursuant to Rule 11.9(b)(1)(C)." Exchange Rule 11.9(b)(1)(C), in turn, states that orders shall be displayed to Users<sup>4</sup> in a manner that is separately identifiable from other Exchange orders, at or within the NBBO price for a period of time not to exceed five hundred milliseconds, as determined by the Exchange.

In light of the Commission's order instituting proceedings to determine

<sup>3</sup> See Securities Exchange Act Release No. 63335 (November 18, 2010, 75 FR 71783. Amendment No. 2 replaced in its entirety the original filing, SR-EDGA-2010-18 (November 8, 2010) and partial Amendment No. 1 (November 23, 2010). See Securities Exchange Act Release No. 63572 (December 17, 2010), 75 FR 80873.

<sup>4</sup> Exchange Rule 1.5(cc) defines a User as any "any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3."

whether to disapprove the above-referenced proposed rule change,<sup>5</sup> the Exchange withdrew the filing mentioned above on February 25, 2011 and ceased offering the Step-up order as of the close of business on February 28, 2011.

The Exchange now proposes to delete rules that reference Step-up orders. Therefore, it is proposing to delete Rules 11.5(c)(11) and 11.9(b)(1)(C). As a result, conforming changes have been made to re-number current Rules 11.5(c)(12)–(14) as Rules 11.5(c)(11)–(13). In addition, a conforming change is proposed to re-number the reference to Discretionary Orders, as set forth in Rule 11.8(a)(2)(C).

##### 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,<sup>6</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. Since the Step-up order type was an enhanced functionality offered by the Exchange not required under the Act, the Exchange would like to remove references to it from its rulebook.

#### 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

<sup>5</sup> See Securities Exchange Act Release No. 63929 (February 18, 2011), 76 FR 10416 (SR-EDGA-2010-18).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See supra Section II.A.2.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</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.