

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Fee Code A

The Exchange believes that its proposal to pass through a rebate of \$0.0015 per share for Members' orders that yield fee code A would increase intermarket competition because it offers customers an alternative means to route to Nasdaq for a similar rate as entering orders in certain symbols on Nasdaq directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

BATS Connect

The Exchange does not believe the proposed fees for BATS Connect will result in any burden on competition. The proposed rule change is designed to provide subscribers with an alternative means to access other market centers on the Exchange's network if they choose or in the event of a market disruption where other alternative connection methods become unavailable. BATS Connect is not the exclusive method to connect to these market centers and subscribers may utilize alternative methods to connect to the product if they believe the Exchange's proposed pricing is unreasonable or otherwise. 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 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁹ and paragraph (f) of Rule 19b-4 thereunder.²⁰ 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 email to rule-comments@sec.gov. Please include File Number SR-BATS-2015-44 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-BATS-2015-44. 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 will also be available for

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f).

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-BATS-2015-44 and should be submitted on or before July 8, 2015.

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

Robert W. Errett,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75148; File No. SR-NYSEMKT-2015-27]

Self-Regulatory Organizations; NYSE MKT LLC; Order Approving Proposed Rule Change To Amend the Sixth Amended and Restated Operating Agreement of the Exchange

June 11, 2015.

I. Introduction

On April 17, 2015, NYSE MKT LLC ("Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"),² and Rule 19b-4 thereunder,³ a proposed rule change to amend the Sixth Amended and Restated Operating Agreement ("Operating Agreement") of the Exchange. The proposed rule change was published for comment in the **Federal Register** on May 4, 2015.⁴ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

NYSE MKT proposes to amend the Exchange's Operating Agreement to (1) establish a Regulatory Oversight Committee ("ROC"), and (2) remove the requirement that the independent directors who make up the majority of the board of directors of the Exchange ("Board") also be directors of

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 74825 (April 28, 2015), 80 FR 25341 ("Notice").

Intercontinental Exchange, Inc. (“ICE”), the Exchange’s parent company.

A. Creation of a ROC

The Exchange proposes to add subsection (ii) to Section 2.03(h) of the Operating Agreement to establish a ROC and to delineate its composition and functions. The ROC would have the responsibility to independently monitor the Exchange’s regulatory operations.⁵ In particular, pursuant to Section 2.03(h)(ii), the ROC would:

- Oversee the Exchange’s regulatory and self-regulatory organization responsibilities and evaluate the adequacy and effectiveness of the Exchange’s regulatory and self-regulatory organization responsibilities;
- assess the Exchange’s regulatory performance; and

- advise and make recommendations to the Board or other committees of the Board about the Exchange’s regulatory compliance, effectiveness and plans.

In furtherance of these functions, the Exchange proposes that the ROC shall have the authority and obligation to: (i) Review the regulatory budget of the Exchange and specifically inquire into the adequacy of resources available in the budget for regulatory activities; (ii) meet regularly with the Chief Regulatory Officer (“CRO”) in executive session; (iii) in consultation with the Exchange’s Chief Executive Officer, establish the goals, assess the performance, and recommend the CRO’s compensation; and (iv) keep the Board informed with respect to the foregoing matters.

With respect to the ROC’s composition, Section 2.03(h)(ii) would provide that the ROC shall consist of at least three members, each of whom shall be a director of either the Exchange or of NYSE Regulation, Inc. (“NYSE Regulation”), and who satisfy the independence requirements of the Exchange.⁶ The Exchange represents that it believes that a ROC comprised of at least three independent members has been recognized as one of several measures that can help ensure the independence of the regulatory function from the market operations and commercial interests of a national securities exchange.⁷

In addition, Section 2.03(h)(ii) of the Operating Agreement would provide that the Board, on affirmative vote of a

majority of directors, at any time may remove a member of the ROC for cause, and also would provide that a failure of the ROC member to qualify as independent under the Company Director Independence Policy would constitute a basis to remove a member of the ROC for cause. If the term of office of a ROC member terminates, and the remaining term of office of such member at the time of termination is not more than three months, Section 2.03(h)(ii) would provide that during the period of vacancy, the ROC would not be deemed to be in violation of its compositional requirements by virtue of the vacancy. To clarify the process for filling vacancies on any committee of the Exchange, including the ROC, the Exchange also proposes to amend Section 2.03(h) of the Operating Agreement to provide that vacancies in the membership of any committee shall be filled by the Board. The Exchange represents that it believes that the proposed adoption of a ROC would ensure the continued independence of the regulatory process.⁸

B. Exchange Independent Directors

Currently, Section 2.03(a)(i) of the Operating Agreement, which governs the Board’s composition, provides that a majority of the Exchange’s directors shall be U.S. persons who are members of the board of directors of ICE and who satisfy the Exchange’s Company Director Independence Policy. Each such director is defined as an “ICE Independent Director” in Section 2.03(a)(i) of the Operating Agreement. The Exchange proposes to amend Section 2.03(a)(i) to remove the requirement that the independent directors, who must comprise the majority of the Board also be directors of ICE, by amending the definition of “ICE Independent Director” to remove the reference to ICE, and to make conforming changes in both subsections (i) and (ii) of Section 2.03(a).

The Exchange represents that, under this modification to its Operating Agreement, a majority of the directors of the Board would continue to satisfy the Company Director Independence Policy.⁹ The Exchange also notes that it believes that eliminating the requirement that the independent directors of the Exchange also be directors of ICE would allow the Exchange to broaden the pool of potential Board members, resulting in a more diversified Board membership while still ensuring the directors’

independence.¹⁰ The Exchange states that eliminating the requirement that the independent directors of the Exchange also be directors of ICE would result in the Exchange’s Board composition requirements being commensurate with the board requirements of its affiliate, NYSE Arca, Inc., which does not require any of its directors to be directors of ICE.¹¹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.¹² In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act,¹³ which requires an exchange to be so organized and have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and the rules of the exchange. The Commission also finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁴ which requires that the rules of the exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, 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 Exchange’s creation of a ROC as an independent committee to oversee the adequacy and effectiveness of the Exchange’s regulatory responsibilities, compliance and plans, is appropriate and should help the Exchange to fulfill its self-regulatory obligations. The Commission notes that, under proposed Section 2.03(h)(ii) of the Operating Agreement, the responsibilities, enumerated functions, and authority of the ROC are substantially similar to those of other exchanges.¹⁵ In addition, the Commission believes that the

¹⁰ *Id.*

¹¹ *Id.*

¹² In approving this 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).

¹³ 15 U.S.C. 78(b)(1).

¹⁴ 15 U.S.C. 78(b)(5).

¹⁵ See, e.g., Bylaws of NASDAQ Stock Market LLC, Article III, Section 5(c); Third Amended and Restated Bylaws of BATS Exchange, Inc., Article V, Section 6(c); Amended and Restated Bylaws of Miami International Securities Exchange, LLC, Article IV, Section 4.5(c).

⁵ See Notice, 80 FR at 25342.

⁶ The Exchange’s independence requirements are set forth in the Company Director Independence Policy of the Exchange. See Securities Exchange Act Release No. 67564 (August 1, 2012), 77 FR 47151 (August 7, 2012) (SR-NYSE-2012-17) (approving, among other things, the Exchange’s Company Director Independence Policy).

⁷ See Notice, 80 FR at 25342.

⁸ See Notice, 80 FR at 25343.

⁹ See Notice, 80 FR at 25343.

proposed requirement that the members of the ROC consist of either directors of the Exchange or directors of NYSE Regulation who satisfy the independence requirements of the Exchange's Company Director Independence Policy, and the provisions relating to the removal of a member of the ROC either for cause or for failing to qualify as independent, should help ensure the continued independence of the members of the ROC. The proposal to establish a ROC should assist the Exchange in meeting its statutory obligations to comply, and to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Commission notes that, while the proposal removes the requirement that the independent directors who make up the majority of the Board also be ICE directors, it does not alter the requirement under the Operating Agreement that a majority of the Board must satisfy the Exchange's Company Director Independence Policy.¹⁶ Thus, the majority of directors on the Exchange's Board must still qualify as independent directors under the Exchange's Company Director Independence Policy. Moreover, removing the requirement that the independent directors on the Exchange's Board also be directors of ICE may result in a more diversified Board composition as candidates for membership on the Board who qualify as independent under the Company Director Independence Policy need not be limited to those candidates who also serve on the board of directors of ICE.

Accordingly, the Commission finds that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSEMKT-2015-27) is approved.

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

Robert W. Errett,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75147; File No. SR-EDGA-2015-24]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of EDGA Exchange, Inc.

June 11, 2015.

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 9, 2015, EDGA Exchange, Inc. (the "Exchange" or "EDGA") 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.³ The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act⁴ and Rule 19b-4(f)(2) thereunder,⁵ which renders the proposed rule change 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 its fees and rebates applicable to Members⁶ of the Exchange pursuant to EDGA Rule 15.1(a) and (c) ("Fee Schedule") to: (i) Increase the rebate from \$0.00040 per share to \$0.00150 per share for orders that yield fee code A, which routes to the Nasdaq Stock Market LLC ("Nasdaq") and adds liquidity; and (ii) adopt fees for the use of a communication and routing service known as BATS Connect.

The text of the proposed rule change is available at the Exchange's Web site at www.batstrading.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission notes that a previous version of the proposal was filed as SR-EDGA-2015-21. The proposal was withdrawn on June 9, 2015.

⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵ 17 CFR 240.19b-4(f)(2).

⁶ 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).

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: (i) Increase the rebate from \$0.00040 per share to \$0.00150 per share for orders that yield fee code A, which routes to Nasdaq and adds liquidity; and (ii) adopt fees for the use of a communication and routing service known as BATS Connect.

Fee Code A

In securities priced at or above \$1.00, the Exchange currently provides a rebate of \$0.00040 per share for Members' orders that yield fee code A, which routes to Nasdaq and adds liquidity. The Exchange proposes to amend its Fee Schedule to increase this rebate to \$0.00150 per share for Members' orders that yield fee code A. The proposed change represents a pass through of the rate that BATS Trading, Inc. ("BATS Trading"), the Exchange's affiliated routing broker-dealer, is rebated for routing orders to Nasdaq when it does not qualify for a volume tiered rebate. When BATS Trading routes to Nasdaq, it is rebated a standard rate of \$0.00150 per share.⁷ BATS Trading will pass through this rate on Nasdaq to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to Nasdaq's June 2015 fee change where Nasdaq will no longer offer a rebate of \$0.00040 per share for orders in select symbols ("Nasdaq's Select Symbol Program") to its customers, such as

⁷ The Exchange notes that to the extent BATS Trading does or does not achieve any volume tiered discount on Nasdaq or routes an order to Nasdaq in a symbol that is not included in Nasdaq's Select Symbol Program to receive a rebate of \$0.00150 per share, its rate for fee code A will not change. The Exchange further notes that, due to billing system limitations that do not allow for separate rates by tape, it will pass through the lesser rebate of \$0.00150 per share for all Tapes A, B & C securities.

¹⁶ See *supra* note 6.

¹⁷ 17 CFR 200.30-3(a)(12).