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–ISE–2013–41 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–ISE–2013–41. 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, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE., Washington, DC 20549. 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–ISE–2013–41 and should be submitted on or before July 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–15614 Filed 6–28–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69857; File No. SR–BATS–2013–037]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Requirements of the Competitive Liquidity Provider Program

June 25, 2013.

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 20, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 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 Rule 11.8 to eliminate the requirement that Competitive Liquidity Providers (''CLPs'') have information barriers between the CLP unit and the Member's customer, research, and investment banking business because CLPs already are subject to principles-based Exchange rules governing the misuse of nonpublic, material information.

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

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

[2] 17 CFR 240.19b–4.

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

1. Purpose

The Exchange proposes to eliminate the requirement in subparagraph (c)(6) of Interpretation and Policy .02 to Rule 11.8 that the business unit of a Member acting as a CLP maintain adequate information barriers between the CLP unit and the Member's customer, research, and investment banking business. The Exchange believes that the information barrier requirement is unnecessary because CLPs already are subject to the Exchange's existing principles-based rules governing the misuse of nonpublic, material information. Elimination of the information barrier requirement clarifies that CLPs have the flexibility to adapt their policies and procedures as appropriate to reflect changes to their business model, business activities, or the securities market. The Exchange believes that its rules clearly identify prohibited conduct (*i.e.,* misuse of material, non-public information) without further requiring CLPs to establish and maintain specific compliance mechanisms (*e.g.,* information barriers).

Background

The CLP Program and its requirements are set out in Interpretation and Policy .02 to Rule 11.8, the rule that contains the obligations applicable to Exchange Market Makers. A CLP is a Member that electronically enters proprietary orders into the systems and facilities of the Exchange. It is obligated to maintain a bid or an offer at the NBB or NBO in each assigned security in round lots consistent with the requirements of Interpretation and Policy .02 to Rule 11.8. CLPs are subject to both a daily quoting requirement to be eligible to receive financial incentives and a monthly quoting requirement to remain qualified as a CLP. A CLP that does not meet the CLP daily requirement is not eligible to receive the financial incentives of the CLP Program. A CLP that does not meet the CLP monthly quoting requirements is subject to certain non-regulatory penalties, including the potential to lose its CLP status.

To qualify as a CLP, a Member is required to be a registered Market Maker in good standing with the Exchange, consistent with Rules 11.5 through 11.8. Further, the Exchange requires each Member seeking to qualify as a CLP to have and maintain: (1) adequate

technology to support trading through the systems and facilities of the Exchange; (2) one or more unique identifiers that identify to the Exchange CLP trading activity in assigned CLP securities; (3) adequate trading infrastructure to support trading activity, which includes support staff to maintain operational efficiencies in the CLP program and adequate administrative staff to manage the Member's participation in the CLP Program; (4) quoting and volume performance that demonstrates an ability to meet the CLP quoting requirement in each assigned security on a daily and monthly basis; (5) a disciplinary history that is consistent with just and equitable business practices; and (6) with respect to the business unit of the Member acting as a CLP, adequate information barriers between the CLP unit and the Member's customer, research, and investment banking business.

Proposed Rule Change

The Exchange believes it is appropriate to delete subparagraph (c)(6) of Interpretation and Policy .02 to Rule 11.8, which requires that the business unit of the Member acting as a CLP have in place adequate information barriers between the CLP unit and the Member's customer, research, and investment banking business. Instead, the Exchange believes that its rules governing the misuse of material nonpublic information provide an appropriate principles-based approach to preventing the market abuses addressed by subparagraph (c)(6).[3] The Exchange, therefore, believes that specifically requiring information barriers is unnecessary.

The requirement that exchange market makers, in general, have in place information barriers between a market making unit and other business units traces its roots from concerns that an inappropriate sharing of material, non-public information between the market making unit and other business units of a member could result in the misuse of non-public information, manipulation and other improper trading practices, as well as give rise to conflicts of interest.[4] One such concern is that a market maker or affiliate engaging in other business activities might trade on non-public information that the market maker acquired through its market making activities.[5] Another concern is that a market maker may misuse material, non-public information received from its other business activities, such as trading based on a change in the firm's buy or sell recommendation.[6]

Exchanges have recently adopted principles-based rules intended to prevent such market abuses, rather than specific sets of requirements designed to accomplish the same end, such as the information barriers set out in subparagraph (c)(6). NYSE Arca, Inc. (''NYSE Arca''), Nasdaq Stock Market, LLC (''Nasdaq''), and the Exchange, for example, have amended their rules to eliminate specific information barrier requirements for Members.[7] Those exchanges have instead enacted principles-based approaches that permit Members to develop and apply their own policies and procedures to, among other things, prohibit and prevent the misuse of material nonpublic information. While the specific policies and procedures are no longer mandated, these principles-based rules are ''reasonably designed to ensure compliance with applicable federal securities law and regulations, and with the rules of the applicable exchange'' and have been approved by the Commission.[8]

Consistent with the principles-based approach described above, Exchange Rule 5.5 requires that each Member establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by the Member or persons associated with the Member. For purposes of this requirement, conduct constituting the misuse of material, non-public information includes, but is not limited to, the following:

(a) trading in any securities issued by a corporation, or in any related securities or related options or other derivative securities, while in possession of material, non-public information concerning that issuer; or

(b) trading in a security or related options or other derivative securities, while in possession of material, non-public information concerning imminent transactions in the security or related securities; or

(c) disclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material, non-public information.

The Exchange also has several rules prohibiting Members from disadvantaging their customers or other market participants by improperly capitalizing on the Members' access to or receipt of material, non-public information. For example, Rule 12.6 prohibits a Member from trading ahead of its customer's limit orders. Rule 12.13 prohibits a Member from establishing an inventory position in a security or a derivative of such security based on non-public advance knowledge of the content or timing of a research report in that security. Rule 5.1 requires each Member to (i) establish, maintain, and enforce written procedures that will enable it to supervise properly the activities of associated persons; and (ii) establish, maintain, and enforce written procedures to assure associated persons comply with applicable securities laws, rules, regulations, and statements of policy promulgated thereunder, with the rules of the designated self-

[3] The Exchange adopted these principles-based rules in February 2010. *See* Securities Exchange Act Release No. 61574 (February 23, 2010), 75 FR 9455 (March 2, 2010).

[4] *See, e.g.,* Securities Exchange Act Release No. 61336 (Jan. 12, 2010), 75 FR 2908, 2910 (Jan. 19, 2010) (''CBOE Rule 8.91 addresses concerns arising from the potential for the sharing of material non-public information between a DPM's market making activities and other business activities of the DPM or its affiliates.''); Securities Exchange Act Release No. 58328 (Aug. 7, 2008), 73 FR 48260, 48265 (Aug. 18, 2008) (''The restrictions in current NYSE Rule 98 and related rules are intended to address two primary concerns. The first concern is the potential that an affiliate could unfairly use non-public information, such as information on a specialist's book or information regularly provided to him by other market participants because of his central role as a primary market specialist. . . . The second concern is that a specialist unit could favor its affiliates by providing orders placed by the affiliate with more favorable executions and by providing useful market information to the affiliated firm (or to its broker on the exchange trading floor) but not to others. In some cases, such conflicts of interest could result in the specialist neglecting his duty to make a fair and orderly market by giving an affiliate's principal or agency orders a more favorable execution.''); *see also Broker-Dealer Policies and Procedures Designed to Segment the Flow and Prevent the Misuse of Material Nonpublic Information,* Securities and Exchange Commission Division of Market Regulation, March 1990.

[5] *See* Securities Exchange Act Release No. 61574 (February 23, 2010), 75 FR 9455, 9458 (March 2, 2010).

[6] *Id.*

[7] *See* Securities Exchange Act Release No. 61574 (February 23, 2010), 75 FR 9455 (March 2, 2010); Securities Exchange Act Release No. 60604 (September 1, 2009), 74 FR 46272 (September 8, 2009) (SR–NYSEArca–2009–78); Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (adopting Nasdaq IM–2110–2; IM–2110–3; IM–2110–4; and Rule 3010).

[8] *See* 75 FR at 9458 (''The Commission believes that, with adequate oversight by the Exchange of its members, elimination of prescriptive information barrier requirements should not reduce the effectiveness of BATS rules requiring Members to establish and maintain systems to supervise the activities of Members, and written procedures that are reasonably designed to comply with applicable securities laws and Exchange rules, including the prohibition on misuse of material nonpublic information.'')

regulatory organization, where appropriate, and with Exchange Rules.

The elimination of the information barrier requirements in the CLP Program would allow CLPs to tailor their policies and procedures with respect to the handling of material, non-public information as appropriate to reflect their business models and activities, and to adapt to changes in such models, activities, and the securities market in general.[9] Consistent with the practices of other national securities exchanges, the Exchange, therefore, proposes to eliminate the information barrier requirement set out in subparagraph (c)(6) of Interpretation and Policy .02 to Rule 11.8. The Exchange believes that this approach will foster a fair and orderly marketplace without being overly burdensome to its Members.

By amending its rules in accordance with this proposal, the Exchange reinforces a regulatory structure that clearly prohibits certain conduct (*e.g.,* misuse of material, non-public information pursuant to Rule 5.5) without further requiring Members to establish and maintain specific compliance mechanisms (*e.g.,* information barriers). The Exchange believes that the approach proposed herein is consistent with Nasdaq and NYSE Arca's respective structures. Importantly, like Nasdaq and NYSE Arca, market makers registered with BATS and other firms that are Members of BATS that trade for their own accounts do not have any advantages regarding relevant trading information provided by the Exchange, either at, or prior to, the point of execution vis-à-vis other market participants. Accordingly, the Exchange believes that its procedures based approach is reasonable.

Pursuant to this proposed rule change, Members may utilize a flexible, principles-based approach to modify their policies and procedures as appropriate to reflect changes to their business model, business activities, or to the securities market itself. A Member should be proactive in assuring that its policies and procedures reflect the current state of its business and continue to be reasonably designed to achieve compliance with applicable federal securities law and regulations, and with applicable Exchange rules. In addition, in the context of approving the proposal by NYSE Arca, the Commission stated that, ''while information barriers are not specifically required under the proposal, a [firm's] business model or business activities may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.'' [10]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act [12] in particular, in that it is designed 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 Exchange believes the proposal is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because existing rules make clear to CLPs the type of conduct that is prohibited by the Exchange. Thus, while the proposal eliminates prescriptive information barrier requirements, CLPs will remain subject to existing Exchange rules requiring them to establish and maintain systems to supervise their activities, and to create, implement, and maintain written procedures that are reasonably designed to comply with applicable securities laws and Exchange rules, including the prohibition on the misuse of material, nonpublic information. The Exchange also believes the proposal is designed to remove impediments to and perfect the mechanism of a free and open market and national market system because the proposal will allow CLPs to utilize a flexible, principles-based approach to adapt their policies and procedures as appropriate to reflect their business models, business activities, and the securities markets at a given point in time.

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 not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal will enhance competition by allowing CLPs to comply with applicable Exchange rules in a manner best suited to their business models, business activities, and the securities markets, thus reducing regulatory burdens while still ensuring compliance with applicable securities laws and regulations, and with applicable Exchange rules. The Exchange believes that the proposal will foster a fair and orderly marketplace without being overly burdensome upon its Members.

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.

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 Section 19(b)(3)(A)(ii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

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.

Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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

[9] While information barriers are not specifically required under the Exchange's rules, a CLP's business model or business activities may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules.

[10] *See* Securities Exchange Act Release No. 60604 (September 1, 2009), 74 FR at 46275.

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

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(a)(ii).

[14] 17 CFR 240.19b–4(f)(6).

No. SR–BATS–2013–037 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 No. SR–BATS–2013–037. 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 changes 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 such filing will also 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 No. SR–BATS–2013–037 and should be submitted on or before July 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–15697 Filed 6–28–13; 8:45 am]

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[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69856; File No. SR–EDGA–2013–16]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Offer and Establish Fees for a New Exchange Service, EdgeRisk Gateways

June 25, 2013.

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 14, 2013, 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 self-regulatory organization. The Exchange has designated the proposed rule change as it pertains to the fees for EdgeRisk Gateway℠ (the ''Service'') as ''establishing or charging a due, fee or other charge'' under Section 19b(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. Additionally, the Exchange has designated the proposed rule change as it pertains to the EdgeRisk Gateway service as constituting a ''non-controversial'' rule change under Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(f)(6) thereunder,[6] which renders the proposal effective upon receipt of this filing by 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 proposes to offer and establish fees for the Service, a risk management tool available to Members[7] and non-Members[8] of the Exchange. All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Proposed Addition of EdgeRisk Gateway Service

The Exchange currently offers logical ports through which Members and non-Members enter orders in the Exchange's System,[9] receive drop copies of orders and execution messages, and receive transmission of depth of book data (''Logical Ports''). Each Logical Port is assigned an access gateway that performs order validations and manages the cycle of a submitted order's flow of information to the System and back to the Member. The access gateway performs functions such as message validation, acknowledgement messaging, risk checks, matching engine routing and execution messaging. The Exchange currently assigns Members' and non-Members' Logical Ports to the access gateways through a standard method that accounts for the relative message traffic expected over the Logical Port as well as redundancy requirements, where an access gateway contains assigned Logical Ports for a number of firms. The Exchange assigns Member and non-Member sessions to multiple access gateways so that the failure of one gateway may not result in the loss of access. On an ongoing basis, the Exchange carefully monitors incoming and outgoing traffic on all access gateways to ensure that available capacity is adequate to support Exchange message traffic and installs additional access gateways as needed to ensure consistent capacity levels are maintained. Although the Exchange monitors traffic to ensure available capacity, it cannot completely address

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

[7] As defined in Exchange Rule 1.5(n).

[8] Specifically, service bureaus that act as a conduit for orders entered by Members that are their customers.

[9] As defined in Exchange Rule 1.5(cc).