Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 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–NYSEMKT–2015–55, and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–19872 Filed 8–12–15; 08:45 am]

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[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75650; File No. SR–EDGX–2015–18]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3 Thereto, To Establish Rules Governing the Trading of Options on the EDGX Options Market

August 7, 2015.

I. Introduction

On April 30, 2015, EDGX Exchange, Inc. (''EDGX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules to govern the trading of options on the Exchange (referred to herein as ''EDGX Options Exchange'' or ''EDGX Options''). The proposed rule change was published for comment in the **Federal Register** on May 19, 2015.[3] On June 25, 2015, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On August 3, 2015, EDGX filed Amendment No. 1 to the proposed rule change.[6] On August 6, 2015, EDGX filed Amendment No. 2 to the proposed rule change.[7] On August 7, 2015, the Exchange filed Amendment No. 3 to the proposed rule change.[8] The Commission received three comment letters on the proposal.[9] On August 7, 2015, the Exchange responded to the comment letters.[10] The Commission is publishing this notice to solicit comment on Amendment Nos. 1 and 2 to the proposed rule change and is approving the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 thereto, on an accelerated basis.

II. Comment Summary

The Commission received three comments letters regarding the proposal and the Exchange's Response thereto.[11] One commenter opposed the proposal because ''we do not need additional options exchanges.''[12] The commenter stated that additional options exchanges would lead to fragmentation causing ''a thinner order book at all options exchange[s] and allows fast intermediaries to take advantage of retail orders.''[13]

Another commenter stated that it opposes any priority model for an options exchange other than price-time priority.[14] The commenter believed that ''pure price-time priority is the best and fairest model for a healthy and robust market.''[15] The commenter further noted that price-time priority ''is the best and fairest model because it rewards firms who are the first people willing to trade at a better price.''[16] The commenter states that exchanges with pro-rata allocation models adopt rules which allow directed orders and preferences without justification. According to the commenter, ''[p]ro-rata allocation rewards firms that simply quote large size, for no particularly clear benefit to the market.''[17]

In response to the commenters' concerns, EDGX notes that both the ISE Letter and the Hardcastle Letter ''raised concerns with proposed paragraph (f)(2) of proposed [EDGX Options] Rule 21.8, which would have provided a small size order . . . allocation to Directed Market Makers . . . .''[18] The Exchange further notes that it eliminated that subparagraph from the proposed rule change in Amendment No. 1.[19] The Response also states that the ''additional points raised in the Hardcastle Letter and the Shatto Letter are either not responsive to the issues raised in Proposal or are aimed at existing elements of U.S. market structure that have been previously approved by the Commission and are available on other exchanges and in the marketplace generally.''[20] Consequently, EDGX does not believe these comments are ''germane to the proposal.''[21]

III. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment Nos. 1, 2,

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74949 (May 13, 2015), 80 FR 28745 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 75297, 80 FR 37672 (July 1, 2015).

[6] Amendment No. 1 deleted proposed EDGX Options Rule 21.8(f)(2), which would have granted participation entitlements to Directed Market Makers trading against small size orders defined as five or fewer contracts. In addition, Amendment No. 1 provided more detailed information regarding participation entitlements for Directed Market Makers. Among other things, the Exchange represented that the proposed rules provide the necessary protections against coordinated action between a Directed Market Maker and order entry firms and that EDGX Options will proactively conduct surveillance for, and enforce against, such violations.

[7] In Amendment No. 2, the Exchange represented that it is a participant in the Plan for the Selection and Reservation of Securities Symbols. Amendment No. 2 also clarified that the Penny Pilot Program (discussed below) is scheduled to expire on June 30, 2016 and the Exchange would be permitted to replace any penny pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the penny pilot, based on trading activity in the previous six months. The replacement issues may be added to the penny pilot on the second trading day following July 1, 2015 and January 1, 2016.

[8] Amendment No. 3 made technical changes to Amendments Nos. 1 and 2. Because Amendment No. 3 is technical in nature, the Commission is not required to publish it for public comment.

[9] *See* letters to Brent J. Fields, Secretary, Commission, from Suzanne H. Shatto, dated July 7, 2015 (''Shatto Letter''); from Michael J. Simon, Secretary and General Counsel, International Securities Exchange, LLC (''ISE''), dated July 28, 2015 (''ISE Letter''); and from Mark D. Wilson, Director of Technical Risk Management & Exchange Relations and Brent E. Hippert, President and Chief Compliance Officer, Hardcastle Trading USA, LLC, dated August 3, 2015 (''Hardcastle Letter'').

[10] *See* letter to Brent J. Fields, Secretary, Commission, from Anders Franzon, VP, Associate General Counsel, EDGX, dated August 7, 2015 (''Response'').

[11] *See supra* notes 9 and 10. The ISE Letter focused exclusively on the proposed five lot entitlement for Directed Market Makers and did not address any other aspect of the proposed EDGX Options rules. The Exchange subsequently deleted this provision from the proposed rule change and therefore the Commission has not addressed the ISE Letter in this order.

[12] *See* Shatto Letter, *supra* note 9.

[13] *See id.*

[14] *See* Hardcastle Letter, *supra* note 9, at 1.

[15] *Id.*

[16] *See* Hardcastle Letter, *supra* note 9, at 3.

[17] *See* Hardcastle Letter, *supra* note 9, at 3. The Hardcastle Letter was received after the expiration of the comment period and raises broader market structure policy concerns that are outside of the scope of the present proposal.

[18] *See* Response, supra *note* 10, at 2.

[19] *See id.*

[20] *See id.*

[21] *See id.*

and 3 thereto, and consideration of the comment letters and the Exchange's Response thereto, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[22] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[23] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities; 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. Section 6(b)(5) also requires that the rules of an exchange not be designed to permit unfair discrimination among customers, issuers, brokers, or dealers. Further, the Commission finds that the proposal is consistent with Sections 6(b)(1) of the Act,[24] which requires, among other things, that a national securities exchange be so organized and have the capacity to carry out the purposes of the Act, and to comply and enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulation thereunder, and the rules of the exchange.

This discussion does not review every detail of the proposal, but focuses on the most significant rules and policy issues considered in review of the proposal.

A. EDGX Options Members

EDGX Options will operate an electronic trading system for trading options (''System'') that will provide for the electronic display and execution of orders.[25] EDGX Options will have only one category of members, known as ''Options Members.'' [26] Only Options Members will be permitted to transact business on the System.[27] There will be two types of Options Members: (1) Options Order Entry Firms (''OEFs'') and (2) Options Market Makers. An Options Member must be a member of the Exchange and another registered options exchange that is not registered solely under Section 6(g) of the Act [28] or the Financial Industry Regulatory Authority (''FINRA'').[29] Further, an OEF may only transact business with public customers if such Options Member also is a member of another registered national securities exchange or association with which the Exchange has entered into an agreement under Rule 17d-2 under the Act pursuant to which such other exchange or association shall be the designated options examining authority for the OEF.[30] In addition, Options Members that transact business with Public Customers must at all times be a member of FINRA.[31]

Among other things, each Options Member must be registered as a broker-dealer and have as the principal purpose of being an Options Member the conduct of a securities business, which shall be deemed to exist if and so long as: (1) The Options Member has qualified and acts in respect of its business on EDGX Options as either an OEF or an Options Market Maker or both; and (2) all transactions effected by the Options Member are in compliance with Section 11(a) of the Act [32] and the rules and regulation adopted thereunder.[33] Options Members may trade options for their own proprietary accounts or, if authorized to do so under applicable law, may conduct business on behalf of customers.[34]

OEFs are Options Members representing customer orders as agent on EDGX Options or non-market maker participants conducting proprietary trading as principal.[35] Options Market Makers are Options Members registered with the Exchange as Options Market Makers and registered to make markets in individual series of options.[36] Options Market Makers will be eligible to participate as Directed Market Makers, Primary Market Makers and Market Makers.[37] A Market Maker that engages in specified Other Business Activities, or that is affiliated with a broker-dealer that engages in Other Business Activities, including functioning as an OEF, must have an Information Barrier between the market making activities and the Other Business Activities.[38] To become an Options Market Maker, an Options Member is required to register by filing a written application with the Exchange, which will consider an applicant's market making ability and such other factors as it deems appropriate in determining whether to approve an applicant's registration as a Market Maker.[39] An unlimited number of Market Makers may be registered in each class unless the number of Market Makers registered to make a market in a particular option class should be limited whenever, in the Exchange's judgment, quotation system capacity in an option class or classes is not sufficient to support additional Market Makers in such class or classes.[40] The Exchange will not restrict access in any particular option class until such time as the Exchange has submitted objective standards for restricting access to the Commission for its review and approval.[41]

In addition, the Exchange may appoint one Primary Market Maker per option class.[42] Market Makers may select from among any option issues traded on the Exchange to request appointment as a Primary Market

[22] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78f(b)(1).

[25] The proposed rules of EDGX Options are based on, and virtually identical to, the rules of the Exchange's affiliate, BATS Exchange, Inc. (''BZX Options''), with the exception of the proposed priority model and certain other limited differences. *See* Notice, *supra* note 3, at 28745.

[26] The term ''Options Member'' means a firm, or organization that is registered with the Exchange pursuant to Chapter XVII of EDGX Options proposed rules for purposes of participating in options trading on EDGX Options as an Order Entry Firm or Options Market Maker. *See* proposed EDGX Options Rules, Chapter XVI, Rule 16.1(a)(38). All Exchange members will be eligible to participate in EDGX Options provided that the Exchange specifically authorizes them to trade in the System and they become Options Members. A prospective Options Member must be an existing member or become a Member of the Exchange, pursuant to Chapter II (Members of the Exchange), and continue to abide by the requirements of the Chapter II Exchange Rules with respect to participation in EDGX Options. *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.1(b)(3).

[27] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.1(a).

[28] 15 U.S.C. 78f(g).

[29] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.2(f).

[30] *See* proposed EDGX Options Rules, Chapter XXVI, Rule 26.1.

[31] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.2(f).

[32] 15 U.S.C. 78k(a).

[33] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.2(e).

[34] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.1(a).

[35] *See* proposed EDGX Options Rules, Chapter XVI, Rule 16.1(a)(36).

[36] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2. All Market Makers are designated as specialists on EDGX Options for all purposes under the Exchange Act or Rules thereunder.

[37] *See* Notice, *supra* note 3, at 28746.

[38] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.10(a).

[39] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2(a).

[40] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2(c).

[41] *See id.*

[42] *See id.*

Maker, subject to the approval of the Exchange. In considering the approval of the appointment of a Primary Market Maker in each security, the Exchange will consider: The Market Maker's preference; the financial resources available to the Market Maker; the Market Maker's experience, expertise and past performance in making markets, including the Market Maker's performance in other securities; the Market Maker's operational capability; and the maintenance and enhancement of competition among Market Makers in each security in which they are registered, including pursuant to the performance standards set forth in proposed Rule 22.2(i).[43] Options Market Makers are required to electronically engage in a course of dealings to enhance liquidity available on EDGX Options and to assist in the maintenance of fair and orderly markets.[44] Among other things, an Options Market Maker must: (1) On a daily basis maintain a two-sided market on a continuous basis in at least 75% of the individual options series in which it is registered; (2) engage, to a reasonable degree under the existing circumstances, in dealings for their own accounts when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class; (3) compete with other Market Makers in all series in which the Market Maker is registered to trade; and (4) maintain minimum net capital in accordance with Commission and the Exchange rules.[45] Substantial or continued failure by an Options Market Maker to meet any of its obligations and duties would subject the Options Market Maker to disciplinary action, suspension, or revocation of the Options Market Maker's registration in one or more options series.[46]

The Commission finds that the Options Market Maker qualification requirements are consistent with the Act and notes that they are similar to those of other options exchanges.[47] The Commission also finds that the Options Market Maker participation requirements are consistent with the Act. Market makers receive certain benefits for carrying out their responsibilities. For example, a broker-dealer or other lender may extend ''good faith'' credit to a member of a national securities exchange or registered broker-dealer to finance its activities as a market maker or specialist.[48] In addition, market makers are exempted from the prohibition in Section 11(a) of the Act. The Commission believes that a market maker must have sufficient affirmative obligations, including the obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis, to justify this favorable treatment. The Commission believes that EDGX Options Market Maker participation requirements impose sufficient affirmative obligations on Options Market Makers and, accordingly, that these EDGX Options requirements are consistent with the Act.[49]

B. EDGX Options Trading System

The Exchange's options trading system will leverage the Exchange's current technology, including its customer connectivity, messaging protocols, quotation and execution engine, order router, data feeds, and network infrastructure. As a result, the EDGX Options Exchange will closely resemble the Exchange's affiliate, BZX Options, with the exception of the proposed priority model and certain other limited differences.[50] As noted above, EDGX Options will maintain a pro rata allocation model with execution priority dependent on the capacity of an order (*e.g.,* Customer or non-Customer) as well as status as a Primary Market Maker or Directed Market Maker, as applicable.[51] The System will include a proprietary data feed, Multicast PITCH, which will display depth of book quotations and execution information based on orders received by EDGX Options using the minimum price variation applicable to that security.[52]

Options Members will be able to enter the following types of orders into the System: Limit Orders;[53] Minimum Quantity Orders;[54] Market Orders;[55] Price Improving Orders;[56] Book Only

[43] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2(d). The Exchange will periodically conduct an evaluation of Primary Market Makers to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, competition among Market Makers, observance of ethical standards, and administrative factors. The Exchange may consider any relevant information including, but not limited to, the results of a Market Maker evaluation, trading data, a Market Maker's regulatory history and such other factors and data as may be pertinent in the circumstances. *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2(i).

[44] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.5.

[45] *See, e.g.,* proposed EDGX Options Rules, Chapter XXII, Rule 22.5(a).

[46] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.5(c).

[47] *See, e.g.,* Rules of NOM, Chapter VII, Sections 4, 5, and 6; and BATS Rules 22.4, 22.5 and 22.6.

[48] *See* 12 CFR 221.5 and 12 CFR 220.7; *see also* 17 CFR 240.15c3–1(a)(6) (capital requirements for market makers).

[49] The Commission notes that the participation requirements are similar to those of other options exchanges. *See, e.g.,* NOM Rules, Chapter VII, Sections 5 and 6; and BATS Rules 22.5 and 22.6.

[50] *See* Notice, *supra* note 3, at 28745.

[51] *See id.* at 28747. The System includes: (1) An order execution service that enables Users to automatically execute transactions in System Securities; and provides Users with sufficient monitoring and updating capability to participate in an automated execution environment; (2) a trade reporting service that submits ''locked-in'' trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority for dissemination to the public and industry, and provides participants with monitoring and risk management capabilities to facilitate participation in a ''locked-in'' trading environment; and (3) a data feed(s) that can be used to display with or without attribution to Options Members' MPIDs Displayed Orders on both the bid and offer side of the market for price levels then within EDGX Options using the minimum price variation applicable to that security. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(a). *See* Notice, supra note 3, for a more complete description of EDGX Options operation and rules. The Commission notes that the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'') requires each party to the Plan to collect and promptly transmit to the OPRA all last sale reports relating to its market. *See* OPRA Plan, Article V, Section 5.2(a).

[52] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.15.

[53] Limit Orders are orders to buy or sell an option at a specified price or better. A limit order is marketable when, for a limit order to buy, at the time it is entered into the System, the order is priced at the current inside offer or higher, or for a limit order to sell, at the time it is entered into the System, the order is priced at the inside bid or lower. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(2).

[54] Minimum Quantity Orders are orders that require that a specified minimum quantity of contracts be obtained, or the order is cancelled. Minimum Quantity Orders will only execute against multiple, aggregated orders if such execution would occur simultaneously. The Exchange will only honor a specified minimum quantity on a Book Only Order entered with a time-in-force designation of Immediate or Cancel and will disregard a minimum quantity on any other order. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(3).

[55] Market Orders are orders to buy or sell at the best price available at the time of execution. Market Orders to buy or sell an option traded on EDGX Options will be rejected if they are received when the underlying security is subject to a ''Limit State'' or ''Straddle State'' as defined in the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan''). Any portion of a Market Order that would execute at a price more than $0.50 or 5 percent worse than the NBBO at the time the order initially reaches EDGX Options, whichever is greater, will be cancelled. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(5).

[56] Price Improving Orders are orders to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as (1) one cent. Price Improving Orders shall be displayed at the minimum price variation in that security and shall be rounded up for sell orders and rounded down for buy orders. Unless a User has entered instructions not to do so, Price Improving Orders will be subject to the

Orders;[57] Post Only Orders;[58] and Intermarket Sweep Orders;[59] with characteristics and functionality similar to what is currently approved for use on BZX Options.[60] Orders entered into the System will be designated for display (price and size) on either an attributable or non-attributable basis in the order display service of the System.[61] Options Members will be permitted to enter multiple orders at single or multiple price levels.[62]

All trading interest on the System will be automatically executable. The System shall execute trading interest within the System in price priority, meaning it will execute all trading interest at the best price level within the System before executing trading interest at the next best price. After considering price priority, all orders will be matched according to pro-rata priority. In addition, Customer, Primary Market Maker and/or Directed Market Maker priority overlays are also available at the Exchange's discretion on a class-by-class basis.[63] For example, (i) the Customer Overlay provides Customers with priority over all non-Customer interest at the same price; (ii) the Directed Market Maker overlay (which may only be in effect if the Customer Overlay is also in effect) provides the Directed Market Maker with priority over other Market Makers for a certain percentage of contracts allocated at the same price (60% or 40% depending upon the number of other Market Makers at the NBBO); and (iii) the Primary Market Maker overlay (which may only be in effect if the Customer Overlay is also in effect) provides Primary Market Makers with priority over other Market Makers for a certain percentage of contracts allocated at the same price (60% or 40% depending upon the number of other Market Makers at the NBBO) and for small size orders.[64]

After executions resulting from the priority overlays, orders and quotes within the System for the accounts of non-Customers, including Professional Customers, have next priority.[65] If there is more than one highest bid or more than one lowest offer in the Consolidated Book for the account of a non-Customer, then such bids or offers will be afforded priority on a ''size pro rata'' basis.[66] Any price improvement resulting from an execution in the System will accrue to the party taking liquidity.[67]

The Exchange notes that a Directed Market Maker will have to be quoting at or improving the NBBO at the time the order is received to capitalize on the participation entitlement and will only receive a participation entitlement at one such price point. The Directed Market Maker must be publicly quoting at that price when the order is received. In this regard, the proposal prohibits an order flow provider from notifying a Directed Market Maker regarding its intention to submit a Directed Order so that such Directed Market Maker could change its quotation immediately prior to submission of the directed order. The Exchange believes the proposed rules provide the necessary protections against coordinated action as between a Directed Market Maker and an order entry firm.[68] Furthermore, the Exchange has represented that it will proactively conduct surveillance for, and enforce against, such violations.[69]

Any incoming order designated with a Match Trade Prevention (''MTP'') modifier will be prevented from executing against a resting opposite side order also designated with an MTP modifier and originating from the same market participant identifier (''MPID''), Exchange Member identifier, trading group identifier, or Exchange Sponsored Participant identifier.[70] In such a case, the MTP modifier on the incoming order controls the interaction between two orders marked with MTP modifiers.[71]

The Commission believes that EDGX Options' proposed execution priority rules and order types are consistent with the Act, and in particular, with the requirements in Section 6(b)(5) of the Act, which requires an exchange's rules be, among other things, 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, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that a Directed Market Maker on EDGX Options will have to be quoting at, or better than, the NBBO at the time a Directed Order is received in order to obtain the guarantee. The Commission believes that it is critical that a Directed Market Maker must not be permitted to step up and match the NBBO after it receives a directed order in order to receive the participation entitlement. In this regard, the Exchange's proposal prohibits notifying a Directed Market Maker of an intention to submit a Directed Order so that such Directed Market Maker could change its quotation to match the NBBO immediately prior to submission of the Directed Order, and then fade its quote.

display-price sliding process as set forth in proposed EDGX Options Rule 21.1(h). *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(6).

[57] Book Only Orders are orders that are to be ranked and executed on the Exchange pursuant to Rule 21.8 (Order Display and Book Processing) or cancelled, as appropriate, without routing away to another options exchange. A Book Only Order will be subject to the display-price sliding process unless a User has entered instructions not to use the display-price sliding process as set forth in proposed EDGX Options Rule 21.1(h). *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(7).

[58] Post Only Orders are orders that are to be ranked and executed on the Exchange pursuant to Rule 21.8 (Order Display and Book Processing) or cancelled, as appropriate, without routing away to another options exchange except that the order will not remove liquidity from the EDGX Options Book. A Post Only Order cannot be designated with instructions to use the display-price sliding process described in proposed EDGX Options Rule 21.1(h), and any such order will be rejected. A Post Only Order that is not subject to the Price Adjust process that would lock or cross a Protected Quotation of another options exchange or the Exchange will be cancelled. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(8). The Exchange notes that Post Only Orders on BZX Options are permitted to remove liquidity under certain circumstances and can be designated for the display-price sliding process under BZX Options Rules. The Exchange has not proposed to adopt these features. *See* Notice, *supra* note 3, at 28748.

[59] Intermarket Sweep Orders (''ISOs'') means a limit order for an options series that: (1) When routed to an eligible exchange, the order is identified as an ISO; and (2) simultaneously with the routing of the order, one or more additional ISOs, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the options series with a price that is superior to the limit price of the ISO, which such additional orders also marked as ISOs. *See* proposed EDGX Options Rules, Chapter XXVII, Rule 27.1(a)(9). *See also* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(10).

[60] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1. Options Members entering orders into the System may designate such orders to remain in force and available for display and/or potential execution for varying periods of time. Unless cancelled earlier, once these time periods expire, the order (or the unexecuted portion thereof) is returned to the entering party.

[61] *See* Notice, *supra* note 3, at 28749.

[62] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.6(a).

[63] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.8(d).

[64] *See* Amendment 1, *supra* note 6, at 1.

[65] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.8.

[66] *Id.*

[67] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.8(i).

[68] *See* proposed EDGX Rule 22.10, Limitation on Dealings. The proposed rule would prohibit an order flow provider from notifying a Directed Market Maker of its intention to submit a Directed Order so that the Directed Market Maker could change its quotation to match the national best bid or offer (''NBBO'') immediately prior to the submission of the Directed Order.

[69] *See* letter to Ted Venuti, Senior Special Counsel, Commission, from Anders Franzon, VP, Associate General Counsel, EDGX, dated August 7, 2015 (''Surveillance Letter'').

[70] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(g).

[71] *See id.* An exception exists for orders marked with the MTP Decrement and Cancel (''MDC'') modifier. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(g)(3).

EDGX submitted a letter to the Commission representing that it will provide the necessary protections against that type of conduct, and will proactively conduct surveillance for, and enforce against, such violations.[72]

The Commission further finds that EDGX Options' proposed trading rules are consistent with the requirements of the Options Order Protection and Locked/Crossed Market Plan (''Linkage Plan''). Specifically, subject to the exceptions contained in proposed EDGX Options Rules, Chapter XXVII, the System will ensure that an order is not executed at a price that trades through another options exchange.[73] In this regard, the Commission notes that EDGX Options is required under Rule 608(c) of Regulation NMS to comply with and enforce compliance by its members with the Linkage Plan, including the requirement to avoid trading through better prices available on other markets.[74] As noted below, EDGX Options will be a participant in the Linkage Plan. To meet their regulatory responsibilities under the Linkage Plan, including the requirement to avoid trading through better-priced protected quotations available on other markets, other options exchanges that are Linkage Plan participants must have sufficient notice of new protected quotations, as well as all necessary information (such as final technical specifications). Therefore, the Commission believes that it would be a reasonable policy and procedure under the Linkage Plan for options exchanges to begin treating EDGX Options' best bid and best offer as a protected quotation within 60 days after the date of this order.

Proposed EDGX Options Rules, Chapter XXII, Rule 22.12, prohibits Options Members from executing, as principal, orders they represent as agent unless the agency order is first exposed on EDGX Options for at least one second or the Options Members has been bidding or offering on EDGX Options for at least one second prior to receiving an agency order that is executable against such bid or offer.

The Commission believes that in the electronic environment of EDGX Options, a one second exposure period could facilitate the prompt execution of orders while continuing to provide Options Members with an opportunity to compete for exposed bids and offers. In addition, the EDGX Options System is based upon technology and functionality currently approved for use in the Exchange's equities trading system and the Exchange's affiliate, BZX Options and this order exposure requirement is comparable to that which currently applies on other registered options exchanges.[75] Accordingly, the Commission believes this proposed rule of EDGX Options is consistent with the Act.

C. Opening and Halt Cross

The System will determine a single price at which a particular option series will be opened (the ''Opening Price'') as calculated by the System within 30 seconds of the first transaction on the primary listing market after 9:30 a.m. Eastern Time in the securities underlying the options as reported on the first print disseminated pursuant to an effective national market system plan (''First Listing Market Transaction') or immediately after a halt in an option series due to the primary listing market for the applicable underlying security declaring a regulatory trading halt, suspension, or pause with respect to such security (''Regulatory Halt'') has been lifted.[76]

Specifically, EDGX Options will accept market and limit orders and quotes for inclusion in the opening process (the ''Opening Process'') beginning at 8:00 a.m. Eastern Time or immediately upon trading being halted in an option series due Regulatory Halt) and will continue to accept market and limit orders and quotes until such time as the Opening Process is initiated in that option series (the ''Order Entry Period''), other than index options.[77] Orders may be entered and cancelled throughout the Order Entry Period.

After establishing an Opening Price,[78] orders and quotes in the System that are priced equal to or more aggressively than the Opening Price will be matched based on the Exchange's proposed priority rules.[79] After the matching concludes, orders will be handled in time sequence, beginning with the order with the oldest time stamp and may, in whole or in part, be placed on the EDGX Options Book, cancelled, executed, or routed.[80] Other than the differences with respect to the market model described above, the Opening Process or re-opening after a Regulatory Halt are nearly identical to those that exist on the Exchange's affiliate, BZX Options.

The Commission believes that the proposed EDGX Options Rules regarding the opening of trading on EDGX Options are reasonably designed to provide for an orderly opening and are consistent with the Act. The Commission further believes that the procedure for re-opening trading in an option following the conclusion of a trading halt in the underlying security is reasonably designed to provide for an orderly re-opening of trading in the option and is consistent with the Act.

D. Routing

EDGX Options Members may designate orders to be routed to another options exchange when trading interest is not available on EDGX Options or to execute only on the Exchange. The Exchange proposed that its routing functionality will be limited to only routing System securities, which are options listed for trading on EDGX Options.[81] The Exchange has proposed to offer a variety of routing options: Parallel D,[82] Parallel 2D,[83] Destination Specific[84] and Directed ISO,[85] which may be combined with all available order types and time-in-force designations, with the exception of

[72] *See* Surveillance Letter, *supra* note 69.

[73] *See* proposed EDGX Options Rules, Chapter XXVII, Rule 27.2.

[74] *See* 17 CFR 242.608(c). *See also* EDGX Options Rules, Chapter XXVII, Rule 27.2(a).

[75] *See, e.g.,* Rules of NOM, Chapter VII, Section 12. In addition, the proposed rules governing priority on the System are consistent with other options exchanges that have similar market models, including Amex and MIAX. *See, e.g.,* Amex Rule 964NY and MIAX Rule 514.

[76] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.7.

[77] The Exchange will not accept IOC or FOK orders for queuing prior to the completion of the Opening Process. The Exchange will convert all ISOs entered for queuing prior to the completion of the Opening Process into non-ISOs.

[78] An Opening Price must be a Valid Price as defined in proposed EDGX Options Chapter XXI, Rule 21.7(a)(2).

[79] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.7(a)(3). *See also* proposed EDGX Options Rules, Chapter XXI, Rule 21.8.

[80] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.7(a)(3). *See also* proposed EDGX Options Rules, Chapter XXI, Rule 21.9.

[81] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a).

[82] Parallel D is a routing option under which an order checks the System for available contracts and then is sent to destinations on the System routing table. The System may route to multiple destinations at a single price level simultaneously through Parallel D routing. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2)(A).

[83] Parallel 2D is a routing option under which an order checks the System for available contracts and then is sent to destinations on the System routing table. The System may route to multiple destinations and at multiple price levels simultaneously through Parallel 2D routing. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2)(B).

[84] Destination Specific is a routing option under which an order checks the System for available contracts and then is sent to a specified away options exchange. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2)(C).

[85] Directed ISO is a routing option under which an ISO entered by a User bypasses the System and is sent by the System to another options exchange specified by the User. It is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements relating to Intermarket Sweep Orders. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2)(D).

order types and time-in-force designations whose terms are inconsistent with the terms of a particular routing option.[86] The Exchange also proposes to offer two optional Re-Route instructions: Aggressive Re-Route[87] and Super Aggressive Re-Route,[88] either of which can be assigned to routable orders. An order that is designated as routable will be routed to other options exchanges to be executed when EDGX Options is not at the NBBO consistent with the Options Order Protection and Locked/Crossed Market Plan.[89] Orders routed to other options exchanges do not retain time priority with respect to orders in the System, and the System will continue to execute orders while routed orders are away at another exchange.[90] If a routed order is returned, in whole or in part, that order (or its remainder) will receive a new time stamp reflecting the time of its return to the System.[91] Options members whose orders are routed away will be obligated to honor trades executed on other options exchanges to the same extent they would be obligated to honor a trade executed on EDGX Options.[92]

The Exchange will route options orders via BATS Trading, Inc. (''BATS Trading''), which serves as the Outbound Router of the Exchange, as defined in Rule 2.11.[93] The function of the Outbound Router will be to route orders in options listed and open for trading on EDGX Options to other exchanges pursuant to EDGX Options rules solely on behalf of EDGX Options.[94] The Outbound Router will be subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Act.[95]

Pursuant to Rule 2.11, BATS Trading is required to be a member of an SRO unaffiliated with EDGX that is its designated examining authority, and BATS Trading is required to establish and maintain procedures and internal controls reasonably designed to restrict the flow of confidential and proprietary information between EDGX and its facilities, including BATS Trading, and any other entity.[96] In addition, the books, records, premises, officers, directors, agents, and employees of BATS Trading, as a facility of EDGX, are deemed to be those of the Exchange for purposes of and subject to oversight pursuant to the Act.[97]

In the event the Exchange is not able to provide order routing services through its affiliated broker-dealer, the Exchange will route orders to other options exchanges in conjunction with one or more routing brokers that are not affiliated with the Exchange (''Routing Services'').[98] The Exchange will determine the logic that provides when, how, and where orders are routed away to other options exchanges.[99] The routing broker will receive routing instructions from the Exchange to route orders to other options exchanges and report the executions back to the Exchange.[100] The routing broker cannot change the terms of an order or the routing instructions, nor does the routing broker have any discretion about where to route an order.[101] The Exchange would enter into an agreement with each routing broker used by the Exchange that would, among other things, restrict the use of any confidential and proprietary information that the routing broker receives to legitimate business purposes necessary for the routing of the order at the direction of the Exchange.[102] Further, the Exchange would establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between (1) the Exchange and the routing broker, and any other entity, including any affiliate of the routing broker, and (2) if the routing broker or any of its affiliates engage in any other business activities, other than providing routing services to the Exchange, between the segment of the routing broker or affiliate that provides the other business activities and the segment of the routing broker that provides the routing services.[103]

The Exchange may not use a routing broker for which the Exchange or any affiliate of the Exchange is the designated examining authority.[104] In addition, the Exchange will provide its Routing Services in compliance with the provisions of the Act and the rules thereunder, including but not limited to, the requirements in Section 6(b)(4) and (5) of the Act that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[105] Any bid or offer entered on the Exchange routed to another options exchange through a routing broker that results in an execution shall be binding on the Options Member that entered such bid or offer.[106]

Use of BATS Trading or the Routing Services to route orders to other market centers is optional.[107] Parties that do not desire to use BATS Trading for routing or other Routing Services provided by the Exchange must designate orders as not available for routing.[108]

In light of these protections, for both the use of BATS Trading or an unaffiliated router, the Commission believes that the EDGX Options rules and procedures regarding the use of BATS Trading or an unaffiliated router to route order to away exchanges are consistent with the Act.

E. Minimum Quoting and Trading Increments

The Exchange is proposing to apply the following minimum quoting increments: (1) If the option price is less than $3.00, five (5) cents; and (2) if the option price is $3.00 or higher, ten (10) cents.[109] In addition, the Exchange

[86] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2). These routing options are identical to the routing options offered on BZX. *See* Notice, *supra* note 3, at 28750.

[87] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(3)(A). To the extent the unfilled balance of a routable order has been posted to the EDGX Options Book, should the order subsequently be crossed by another accessible options exchange, the System shall route the order to the crossing options exchange if the User has selected the Aggressive Re-Route instruction.

[88] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(3)(B). To the extent the unfilled balance of a routable order has been posted to the EDGX Options Book, should the order subsequently be locked or crossed by another accessible options exchange, the System shall route the order to the locking or crossing options exchange if the User has selected the Super Aggressive Re-Route instruction.

[89] *See* Notice, *supra* note 3, at 28750.

[90] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(b).

[91] *See id.*

[92] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(c).

[93] *See* Notice, *supra* note 3, at 28750.

[94] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(d).

[95] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(d).

[96] *See* EDGX Rules, Chapter II, Rule 2.11(a)(5).

[97] *See* EDGX Rules, Chapter II, Rule 2.11(b).

[98] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e).

[99] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(5).

[100] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(6).

[101] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(6).

[102] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(1).

[103] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(2).

[104] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(3).

[105] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(4).

[106] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(7).

[107] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(d).

[108] *See id.*

[109] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.5(a).

proposes to participate in a pilot program, until June 30, 2016, to allow quoting in certain options in smaller increments (''Pilot Program'').[110] The Exchange will include in the Pilot Program all classes that are included by other options exchanges in substantially similar pilot programs. If an options class is included in the Pilot Program, the Exchange will allow quoting in one (1) cent increments any option priced less than $3.00 or options on QQQQs, IWM, and SPY.[111] Options priced at $3.00 or higher that are in the Pilot Program will be quoted in five (5) cent increments.[112] In addition, the Exchange is proposing that the minimum *trading* increment for options contracts traded on EDGX Options would be one (1) cent for all series.[113] The Exchange is also proposing to offer trading in Mini Options, and the minimum trading increment for Mini Options will be the same as the minimum trading increment permitted for standard options on the same underlying security.[114]

The Commission believes that the Exchange's proposed minimum quoting and trading increments, including its proposal to commence quoting pursuant to the Pilot Program, which are consistent with the rules of the other options exchanges,[115] are consistent with the Act. As the Commission noted in approving the latest expansion of the Pilot Program, allowing market participants to quote in smaller increments in Pilot options has been shown to reduce spreads, thereby lowering costs to investors.[116] In addition, permitting options to be quoted in smaller increments pursuant to the Pilot Program provides the opportunity for reduced spreads for a significant amount of trading volume.[117] Further, although the Commission anticipates that the Exchange's proposal will contribute to further increases in quotation message traffic, the Commission believes that the Exchange's proposal is sufficiently limited such that it is unlikely on its own to increase quotation message traffic beyond the capacity of market participants' systems.

F. Securities Traded on EDGX Options

The Exchange proposes to adopt initial and continued listing standards for equity and index options traded on EDGX Options that are substantially similar to the listing standards adopted by other options exchanges.[118] The Commission believes that the Exchange's proposed initial and continued listing standards are consistent with the Act, including Section 6(b)(5), in that they are designed to protect investors and the public interest and to promote just and equitable principles of trade. EDGX's operation of the EDGX Options Exchange is conditioned on EDGX becoming a Plan Sponsor in the Plan for the Purpose of Developing and Implementing Procedures designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Act (''OLPP''). The Exchange has represented that it will join the OLPP.[119] In addition, EDGX has represented that it will become an exchange member in the Options Clearing Corporation (''OCC'').[120]

G. Participation in National Market System Plans

The Exchange represented that it will operate as a participant in various national market system plans for options trading established under Section 11A of the Act.[121] Specifically, the Exchange represented that EDGX Options Exchange will become a member of the Options Order Protection and Locked/Crossed Market Plan, the Options Price Reporting Authority (''OPRA''), and the Options Regulatory Surveillance Authority (''ORSA''). EDGX further represented that it is currently a participant in the Plan for the Selection and Reservation of Securities Symbols, and the OLPP.[122]

H. Regulation

According to the Exchange, the Exchange will regulate EDGX Options using the Exchange's existing regulatory structure. The Exchange's Chief Regulatory Officer will have general supervision of the regulatory operations of EDGX Options, including responsibility for overseeing the surveillance, examination, and enforcement functions and for administering all regulatory services agreements applicable to EDGX Options.[123] Similarly, the Exchange's existing Regulatory Oversight Committee (''ROC'') will be responsible for overseeing the adequacy and effectiveness of the Exchange's regulatory and SRO responsibilities, including those applicable to EDGX Options.[124]

As members of the Exchange, the Exchange's existing rules governing members will apply to Options Members and their associated persons. The Exchange's By-laws provide that it has disciplinary jurisdiction over its members, including Options Participants, so that it can enforce its members' compliance with its rules and the federal securities laws.[125] The Exchange's rules also permit it to sanction members, including Options Members, for violations of its rules and of the federal securities laws by, among other things, expelling or suspending members, limiting members' activities, functions, or operations, fining or censuring members, or suspending or barring a person from being associated with a member.[126] The Exchange's rules also provide for the imposition of fines for minor rule violations in lieu of commencing disciplinary proceedings.[127]

Moreover, the Exchange will: (1) Join the existing options industry agreements pursuant to Section 17(d) of the Act; (2) amend, as necessary, the Exchange's existing Regulatory Services Agreement (''RSA'') with FINRA to cover many aspects of the regulation and discipline of the Exchange's Options Members that participate in options trading on EDGX Options; (3) perform options listing regulation, as well as authorize Options Members to trade on EDGX Options; and (4) perform automated surveillance of trading on EDGX Options for the purpose of maintaining a fair and orderly market at all times.[128]

[110] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.5, Interpretations and Policies .01. *See also* Amendment No. 2, *supra* note 7.

[111] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.5(a).

[112] *See id.*

[113] *See* EDGX Options Rules, Chapter XXI, Rule 21.5(b).

[114] *See* EDGX Options Rules, Chapter XXI, Rule 21.5(c).

[115] *See, e.g.,* Rules of NOM, Chapter VI, Section 5.

[116] *See* Securities Exchange Act Release No. 60711 (September 23, 2009), 74 FR 49419, 49424 (September 28, 2009) (SR–NYSEArca–2009–44) (partially approving a proposed rule change to expand the Pilot Program).

[117] *See id.*

[118] *See* Notice, *supra* note 3, at 28751. *See, e.g.,* Rules of BZX Options, Chapters XIX and XXIX.

[119] *See* Notice, *supra* note 3, at 28753.

[120] *See* Notice, *supra* note 3, at 28747.

[121] *See* Notice, *supra* note 3, at 28753.

[122] *See id. See also* Amendment No. 2, *supra* note 7.

[123] *See* Notice, *supra* note 3, at 28754.

[124] *See id.* Pursuant to a regulatory services agreement, FINRA would perform certain regulatory functions on behalf of the Exchange. *See infra* note 133 and accompanying text.

[125] *See, e.g.,* Fourth Amended and Restated By-laws of EDGX Exchange, Inc., Article X, Section 2.

[126] *See, e.g.,* EDGX Rules, Chapter II, Rule 2.2.

[127] *See* proposed EDGX Options Rules, Chapter XXV, Rule 25.3 and *infra* notes 145–148 and accompanying text. *See also* EDGX Options Rules, Chapter VIII, Rule 8.15.

[128] *See* Notice, *supra* note 3, at 28753–54. EDGX Options will be monitored to identify unusual trading patterns and determine whether particular trading activity requires further regulatory investigation by FINRA. *See id.* at 28754.

In addition, the Exchange will oversee the process for determining and implementing trading halts, identifying and responding to unusual market conditions, and administering the Exchange's process for identifying and remediating ''obvious errors'' by and among its Options Members.[129] The proposed EDGX Options rules (Chapter XX) regarding halts, unusual market conditions, extraordinary market volatility, obvious errors, and audit trail are identical to the rules of BZX Options.[130]

The Commission finds that the Exchange's proposed rules and regulatory structure with respect to EDGX Options are consistent with the requirements of the Act, and in particular with Section 6(b)(1) of the Act, which requires an exchange to be so organized and have the capacity to be able 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 and the rules and regulations thereunder, and the rules of the Exchange,[131] and with Section 6(b)(6) and 6(b)(7) of the Act,[132] which require an Exchange to provide fair procedures for the disciplining of members and persons associated with members.

1. Regulatory Services Agreement

Currently, the Exchange and FINRA are parties to an existing RSA, pursuant to which FINRA personnel operate as agents for the Exchange in performing certain functions. The Exchange represented that it intends to amend the existing RSA in order to capture certain aspects of regulation specifically applicable to EDGX Options and the regulation and discipline of Options Members.[133] The Exchange further represents that it will supervise FINRA and continue to bear ultimate regulatory responsibility for functions performed on the Exchange's behalf under the RSA.[134] Further, the Exchange will retain ultimate legal responsibility for the regulation of its Options Members and its market.

The Commission believes that it is consistent with the Act to allow the Exchange to contract with FINRA to perform functions relating to the regulation and discipline of members and the regulation of EDGX Options.[135] These functions are fundamental elements to a regulatory program and constitute core self-regulatory functions. The Commission believes that FINRA has the expertise and experience to perform these functions on behalf of the Exchange.[136]

As noted, unless relieved by the Commission of its responsibility,[137] the Exchange bears the responsibility for self-regulatory conduct and primary liability for self-regulatory failures, not the SRO retained to perform regulatory functions on the Exchange's behalf. In performing these functions, however, FINRA may nonetheless bear liability for causing or aiding and abetting the failure of the Exchange to perform its regulatory functions.[138] Accordingly, although FINRA will not act on its own behalf under its SRO responsibilities in carrying out these regulatory services for the Exchange relating to the operation of EDGX Options, FINRA also may have secondary liability if, for example, the Commission finds the contracted functions are being performed so inadequately as to cause a violation of the federal securities laws by the Exchange.[139]

2. 17d–2 Agreements

Rule 17d–2 under the Act permits SROs to file with the Commission plans under which the SROs allocate among each other the responsibility to receive regulatory reports from, and examine and enforce compliance with specified provisions of the Act and rules thereunder and SRO rules by, firms that are members of more than one SRO (''common members''). If such a plan is declared effective by the Commission, an SRO that is a party to the plan is relieved of regulatory responsibility as to any common member for whom responsibility is allocated under the plan to another SRO.[140]

Pursuant to Rule 17d–2 under the Act, all of the options exchanges, FINRA, and the New York Stock Exchange LLC (''NYSE'') have entered into the Options Sales Practices Agreement, a Rule 17d–2 Agreement, which allocates to certain SROs (''examining SROs'') regulatory responsibility for common members with respect to certain options-related sales practice matters.[141] Under this Agreement, the examining SROs would examine firms that are common members of the Exchange and the particular examining SRO for compliance with certain provisions of the Act, certain of the rules and regulations adopted thereunder, certain examining SRO rules, and certain Exchange Rules. The Exchange's rules contemplate participation in this Agreement by requiring that any Options Member also be a member of at least one of the examining SROs.[142]

Moreover, pursuant to Rule 17d–2 under the Act, all of the options exchanges and FINRA have entered into the Options Related Market Surveillance Agreement, which allocates regulatory responsibility for certain options-related market surveillance matters among the participants.[143] Under this agreement, the examining SRO would assume regulatory responsibility with respect to firms that are common members of the Exchange and the particular examining SRO for compliance with applicable common rules for certain accounts. As a condition to operation, the Exchange must be a party to each of these 17d–2 Agreements, which will cover EDGX members that are Options Members.

[129] *See* Notice, *supra* note 3, at 28754.

[130] *See, e.g.,* Rules of BZX, Chapter XX, *see also* Rules of NOM, Chapter V, and BOX, Chapter V.

[131] 15 U.S.C. 78f(b)(1).

[132] 15 U.S.C. 78f(b)(6) and (b)(7).

[133] *See* Notice, *supra* note 3 at 28754.

[134] *See id.*

[135] *See, e.g.,* Regulation of Exchanges and Alternative Trading Systems, Securities Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844 (December 22, 1998). *See also, e.g.,* Securities Exchange Act Release Nos. 50122 (July 29, 2004), 69 FR 47962 (August 6, 2004) (SR–Amex–2004–32) (approving rule that allowed Amex to contract with another SRO for regulatory services) (''Amex Regulatory Services Approval Order''); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004) (''NOM Approval Order''); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (''Nasdaq Exchange Registration Order''); and 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (''BATS Options Approval Order'').

[136] *See* Amex Regulatory Services Approval Order; NOM Approval Order; Nasdaq Exchange Registration Order, and BATS Options Approval Order, *id.* The Commission notes that the RSA is not before the Commission and, therefore, the Commission is not acting on it.

[137] *See* Section 17(d)(1) of the Act and Rule 17d–2 thereunder (15 U.S.C. 78q(d)(1) and 17 CFR 240.17d–2).

[138] For example, if failings by FINRA have the effect of leaving the Exchange in violation of any aspect of the Exchange's self-regulatory obligations, the Exchange would bear direct liability for the violation, while FINRA may bear liability for causing or aiding and abetting the violation. *See* Nasdaq Exchange Registration Order, *supra* note 135. *See also* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (File No. 10–127) (approving the International Securities Exchange LLC's application for registration as a national securities exchange).

[139] *See id.*

[140] Rule 17d–2 provides that any two or more SROs may file with the Commission a plan for allocating among such SROs the responsibility to receive regulatory reports from persons who are members or participants of more than one of such SROs to examine such persons for compliance, or to enforce compliance by such persons, with specified provisions of the Act, the rules and regulations thereunder, and the rules of such SROs, or to carry out other specified regulatory functions with respect to such persons. *See* 17 CFR 240.17d–2.

[141] *See* Securities Exchange Act Release No. 57987 (June 18, 2008), 73 FR 36156 (June 25, 2008) (File No. S7–966).

[142] *See* proposed EDGX Options Rule, Chapter XVII, Rule 17.2(f).

[143] *See* Securities Exchange Act Release No. 58765 (October 9, 2008), 73 FR 62344 (October 20, 2008) (File No. 4–551).

EDGX represented that it will join the existing options industry agreements pursuant to Section 17d of the Act.[144]

3. Minor Rule Violation Plan

The Commission approved the EDGX Exchange's Minor Rule Violation Plan (''MRVP'') in 2010.[145] The Exchange's MRVP specifies those uncontested minor rule violations with sanctions not exceeding $2,500 that would not be subject to the provisions of Rule 19d–1(c)(1) under the Act[146] requiring that an SRO promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.[147] The Exchange's MRVP includes the policies and procedures included in Exchange Rule 8.15 (Imposition of Fines for Minor Violation(s) of Rules) and in Rule 8.15, Interpretation and Policy .01.

The Exchange proposes to amend its MRVP and Rule 8.15, Interpretation and Policy .01 to include proposed Rule 25.3 (Penalty for Minor Rule Violations).[148] The Commission believes that this change is consistent with the Act because it clarifies that the proposed rules listed in Rule 25.3 of the proposed EDGX Options Rules will be included in EDGX's MRVP.

The Commission notes that the rules included in proposed Rule 25.3 are similar to rules included in the MRVPs of other options exchanges.[149] The Commission finds that the EDGX MRVP, as amended to include the rules listed in proposed EDGX Options Rule 25.3, is consistent with Sections 6(b)(1), 6(b)(5), and 6(b)(6) of the Act, which require, in part, that an exchange have the capacity to enforce compliance with, and provide appropriate discipline for, violations of the rules of the Commission and of the exchange.[150] In addition, because EDGX Rule 8.15 will offer procedural rights to a person sanctioned for a violation listed in proposed EDGX Options Rule 25.3, the Commission believes that the Exchange's rules provide a fair procedure for the disciplining of members and associated persons, consistent with Section 6(b)(7) of the Act.[151]

The Commission also finds that the proposal to include the provisions in proposed EDGX Options Rule 25.3 in EDGX's MRVP is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[152] because it should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving the proposed change to the Exchange's MRVP, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to the imposition of fines under the Exchange's MRVP. The Commission believes that the violation of any SRO rules, as well as Commission rules, is a serious matter. However, the Exchange's MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the Exchange's MRVP or whether a violation requires a formal disciplinary action.

I. Section 11(a) of the Act

Section 11(a)(1) of the Act[153] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[154] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;[155] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

In a letter to the Commission, the Exchange requests that the Commission concur with the Exchange's conclusion that Options Members that enter orders into the System satisfy the requirements of Rule 11a2–2(T).[156] For the reasons set forth below, the Commission believes that Options Members entering orders into the System would satisfy the conditions of the Rule.

The Rule's first condition is that orders for covered accounts be transmitted from off the exchange floor. The System will receive orders electronically through remote terminals or computer-to-computer interfaces. In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[157] Because the System receives orders electronically through remote terminals or computer-to-computer interfaces, the Commission

[144] *See* Notice, *supra* note 3 at 28753.

[145] *See* Securities Exchange Act Release No. 62036 (May 5, 2010), 75 FR 26822 (May 12, 2010) (File No. 4–594) (''MRVP Order'').

[146] 17 CFR 240.19d–1(c)(1).

[147] The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984) (File No. S7–983A). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission would not be considered ''final'' for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $ 2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[148] In the MRVP Order, the Commission noted that the Exchange proposed that any amendments to Rule 8.15.01 made pursuant to a rule filing submitted under Rule 19b-4 of the Act would automatically be deemed a request by the Exchange for Commission approval of a modification to its MRVP. *See* MRVP Order, *supra* note 145, at note 5.

[149] *See, e.g.,* Rules of NOM, Chapter X, Section 7.

[150] 15 U.S.C. 78f(b)(1), 78f(b)(5), and 78f(b)(6).

[151] 15 U.S.C. 78f(b)(7).

[152] 17 CFR 240.19d–1(c)(2).

[153] 15 U.S.C. 78k(a)(1).

[154] 17 CFR 240.11a2–2(T).

[155] The member may, however, participate in clearing and settling the transaction.

[156] *See* Letter to Brent J. Fields, Secretary, Commission, from Anders Franzon, VP, Associate General Counsel, EDGX, dated August 3, 2015 (''EDGX 11(a) Letter'').

[157] *See, e.g.,* NOM Approval Order, *supra* note 135; Securities Exchange Act Release Nos. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

believes that the System satisfies the off-floor transmission requirement.

Second, the Rule requires that the member not participate in the execution of its order once it has been transmitted to the member performing the execution. The Exchange represented that at no time following the submission of an order is an Options Members able to acquire control or influence over the result or timing of an order's execution.[158] According to the Exchange, the execution of a member's order is determined solely by what other orders, bids, or offers are present in the System at the time the Options Member submits the order and on the priority of those orders, bids, and offers.[159] Accordingly, the Commission believes that an Options Member does not participate in the execution of an order submitted to the System.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[160] EDGX represented that the design of the System ensures that no Options Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the Exchange.[161] Based on the Exchange's representation, the Commission believes that the System satisfies this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T)(a)(2)(iv).[162] EDGX Options Members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.[163]

IV. Exemption From Section 19(b) of the Act With Regard to CBOE, NYSE, and FINRA Rules Incorporated by Reference

The Exchange proposes to incorporate by reference as EDGX Options Rules certain rules of the CBOE, NYSE, and FINRA.[164] Thus, for certain EDGX Options rules, Exchange members will comply with an EDGX Options rule by complying with the CBOE, NYSE, or FINRA rule referenced. In connection with its proposal to incorporate CBOE, NYSE, and FINRA rules by reference, the Exchange requested, pursuant to Rule 240.0–12 under the Act,[165] an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to those EDGX Options rules that are effected solely by virtue of a change to a cross-referenced CBOE, NYSE, or FINRA rule.[166] The Exchange proposes to incorporate by reference categories of rules (rather than individual rules within a category) that are not trading rules. The Exchange agrees to provide written notice to Options Member prior to the launch of EDGX Options of the specific CBOE, NYSE, and FINRA rules that it will incorporate by reference.[167] In addition, the Exchange will notify Options Members whenever CBOE, NYSE, or FINRA proposes a change to a cross-referenced CBOE, NYSE, or FINRA rule.[168]

Using its authority under Section 36 of the Act, the Commission previously exempted certain SROs from the requirement to file proposed rule changes under Section 19(b) of the Act.[169] Each such exempt SRO agreed to be governed by the incorporated rules, as amended from time to time, but is not required to file a separate proposed rule change with the Commission each time the SRO whose rules are incorporated by reference seeks to modify its rules. In addition, each SRO incorporated by reference only regulatory rules (*e.g.,* margin, suitability, arbitration), not trading rules, and incorporated by reference whole categories of rules (*i.e.,* did not ''cherry-pick'' certain individual rules within a category). Each exempt SRO had reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO in order to provide its members with notice of a proposed rule change that affects their interests, so that they would have an opportunity to comment on it.

The Commission is granting the Exchange's request for exemption, pursuant to Section 36 of the Act, from the rule filing requirements of Section 19(b) of the Act with respect to the rules that the Exchange proposes to incorporate by reference into EDGX

[158] *See* EDGX 11(a) Letter, *supra* note 156, at 6.

[159] *See id.* The member may cancel or modify the order, or modify the instruction for executing the order, but only from off the floor. The Commission has stated that the non-participation requirement is satisfied under such circumstances, so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14713 (April 27, 1978), 43 FR 18557 (May 1, 1978) (''1978 Release'') (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[160] In considering the operation of automated execution systems operated by an exchange, the Commission has noted that while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 157.

[161] *See* EDGX 11(a) Letter, *supra* note 156, at 6.

[162] 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 159 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[163] *See* EDGX 11(a) Letter, *supra* note 156, at 6.

[164] Specifically, the Exchange proposes to incorporate by reference: (1) CBOE rules governing position and exercise limits for equity and index options, which are referenced in proposed EDGX Options Rules 18.7, 18.9, 29.5, and 29.7; (2) the margin rules of the CBOE or the NYSE, which are referenced in proposed EDGX Options Rule 28.3; and (3) FINRA's rules governing communications with the public, which are referenced in proposed EDGX Options Rule 26.16.

[165] 17 CFR 240.0–12.

[166] *See* Letter to Brent J. Fields, Secretary, Commission, from Anders Franzon, VP, Associate General Counsel, EDGX, dated August 3, 2015 (''Exemption Request Letter'').

[167] *See id.*

[168] The Exchange will provide such notice through a posting on the same Web site location where the Exchange will post its own rule filings pursuant to Rule 19b–4(l) under Act, within the time frame required by that rule. The Web site posting will include a link to the location on the CBOE, NYSE, or FINRA Web site where the proposed rule change is posted. *See id.*

[169] *See* Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004). *See also* Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521, 14539–40 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) and 53128 (January 13, 2006), 71 FR 3550, 3565–66 (January 23, 2006) (File No. 10–131) (approving The NASDAQ Stock Market LLC's exchange application).

Options Rules. The Commission believes that this exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO. Consequently, the Commission grants the Exchange's exemption request for EDGX Options. This exemption is conditioned upon the Exchange providing written notice to Options Members whenever the CBOE, NYSE, or FINRA proposes to change a rule that EDGX Options has incorporated by reference.[170]

V. Solicitation of Comments on Amendment Nos. 1 and 2

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment Nos. 1 and 2 to the proposed rule change are 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–EDGX–2015–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2015–18. 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 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–2015–18 and should be submitted on or before September 3, 2015.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 [171] thereto, prior to the 30th day after the date of publication of notice of Amendment Nos. 1 and 2 in the **Federal Register**. As discussed above, Amendment No. 1 revised the proposed rule change by deleting proposed EDGX Options Rule 21.8(f)(2), which would have granted participation entitlements to Directed Market Makers trading against small size orders defined as five or fewer contracts in addition to providing more detailed information regarding participation entitlements for Directed Market Makers. The Commission believes that the revisions in Amendment No. 1 are being made in response to concerns raised by commenters regarding internalization in the options market. As discussed above, Amendment No. 2 revised the proposed rule change by representing that the Exchange is a participant in the Plan for the Selection and Reservation of Securities Symbols and clarified that the Penny Pilot is scheduled to expire on June 30, 2016. The Commission believes Amendment Nos. 1 and 2 are consistent with the purpose of the proposed rule change and are consistent with the protection of investors and the public interest. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[172] to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 thereto, on an accelerated basis.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[173] that the proposed rule change (SR–EDGX–2015–18), as modified by Amendment Nos. 1, 2, and 3 thereto, be, and hereby is, approved on an accelerated basis.

Although the Commission's approval of the proposed rule change is final, and the proposed rules are therefore effective, it is further ordered that the operation of EDGX Options is conditioned on the satisfaction of the requirements below:

A. *Participation in National Market System Plans Relating to Options Trading.* EDGX must join: (1) The OPRA Plan; (2) the OLPP; (3) the Linkage Plan; and (4) the Plan of the Options Regulatory Surveillance Authority.

B. *RSA and Rule 17d–2 Agreements.* EDGX must ensure that all necessary changes are made to its Regulatory Services Agreement with FINRA and must be a party to the multi-party Rule 17d–2 agreements concerning options sales practice regulation and market surveillance.[174]

C. *Participation in the Options Clearing Corporation.* EDGX must join the Options Clearing Corporation.

D. *Participation in the Intermarket Surveillance Group.* EDGX must be a member of the Intermarket Surveillance Group.

It is further ordered, pursuant to Section 36 of the Act,[175] that EDGX shall be exempted from the rule filing requirements of Section 19(b) of the Act with respect to the CBOE, FINRA, and NYSE rules that EDGX proposes to incorporate by reference, subject to the conditions specified in this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[176]

Jill M. Peterson,

Assistant Secretary.

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[170] As discussed above, the Exchange has represented that it will notify Options Members whenever the CBOE, NYSE, or FINRA proposes a change to a cross-referenced CBOE, NYSE, or FINRA rule. *See supra* note 168 and accompanying text.

[171] As noted above, because Amendment No. 3 is technical in nature, the Commission is not required to publish it for public comment. *See supra* note 8.

[172] 15 U.S.C. 78s(b)(2).

[173] 15 U.S.C. 78s(b)(2).

[174] *See supra* notes 141 and 143 and accompanying text. *See also* 17 CFR 240.17d–2.

[175] 15 U.S.C. 78mm.

[176] 17 CFR 200.30(a)(12).