

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>25</sup> and Rule 19b-4(f)(6) thereunder.<sup>26</sup> Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>27</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>28</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2014-42 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-NYSEMKT-2014-42. 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 at 100 F Street NE., Washington, DC 20549-1090 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-2014-42, and should be submitted on or before May 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-72086; File No. SR-EDGX-2014-05]

**Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Adopt a New Order Type Called the Mid-Point Discretionary Order**

May 2, 2014.

On March 7, 2014, EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its rules to add a new order type called the Mid-Point Discretionary Order and to reflect the priority of Mid-Point Discretionary Orders. The proposed rule change was published for comment in the **Federal Register** on March 25, 2014.<sup>3</sup> The Commission received no comment letters.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether these proposed rule changes should be disapproved. The 45th day for this filing is May 9, 2014.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider and take action on the Exchange's proposed rule change.

Accordingly, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act<sup>5</sup> and for the reasons stated above, the Commission designates June 23, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>26</sup> 17 CFR 240.19b-4(f)(6).

<sup>27</sup> 17 CFR 240.19b-4(f)(6)(iii). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>28</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>29</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 71747 (March 19, 2014), 79 FR 16401.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2)(A)(ii)(I).

disapprove, the proposed rule change (File No. SR-EDGX-2014-05).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72081; File No. SR-NYSEArca-2014-04]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NYSE Arca, Inc.'s Rules by Revising the Order of Priority of Bids and Offers When Executing Orders in Open Outcry

May 2, 2014.

#### I. Introduction

On January 15, 2014, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to revise the order of priority of bids and offers when executing orders in open outcry. The proposed rule change was published for comment in the **Federal Register** on February 3, 2014.<sup>3</sup> On March 18, 2014, the Commission extended the time period for Commission action on the proposal to May 2, 2014.<sup>4</sup> The Commission received ten comment letters from seven commenters regarding the proposal,<sup>5</sup> as

well as a response to the comment letters from NYSE Arca.<sup>6</sup> On April 29, 2014, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>7</sup> The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>8</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input from interested parties on the changes to the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposal

NYSE Arca proposes to amend its rules governing the priority of bids and offers on its Consolidated Book by revising the order of priority in open outcry to afford priority to bids and offers represented by Market Makers<sup>9</sup> and Floor Brokers<sup>10</sup> (collectively, "Crowd Participants")<sup>11</sup> over certain equal-priced bids and offers of non-Customers<sup>12</sup> on the Consolidated

Book<sup>13</sup> during the execution of an order in open outcry on the Floor<sup>14</sup> of the Exchange.<sup>15</sup>

Current Rule 6.75(a) provides that any bids displayed on the Consolidated Book have priority over same-priced bids represented in open outcry. Such priority also is described in current Rule 6.47, which governs crossing orders in open outcry. Floor Broker crossing transactions, as described in Rule 6.47(a)(3), may not trade ahead of bids or offers on the Consolidated Book that are priced equal to or better than the proposed crossing price. The Exchange stated that, because of this priority afforded to the Consolidated Book, Crowd Participants who have negotiated a large transaction ultimately might not be able to participate in its execution.<sup>16</sup>

The Exchange proposed to restructure its priority rules so that bids and offers of Crowd Participants would have priority over equal-priced bids and offers of non-Customers on the Consolidated Book that are ranked in time priority behind any equal-priced Customer bids and offers on the Consolidated Book. Equal-priced Customer<sup>17</sup> interest would continue to be afforded priority over Crowd Participants in the execution of an open outcry transaction. In addition, consistent with the existing price/time priority presently applicable to bids and offers on the Consolidated Book, equal-priced non-Customer bids and offers ranked in time priority ahead of Customer interest also would be afforded priority over Crowd Participants in the execution of an open outcry transaction. In the Exchange's view, the proposed rule change strikes the appropriate balance between encouraging larger negotiated transactions in open outcry, while at the

Regulatory Officer, Susquehanna International Group, LLP ("SIG"), dated March 14, 2014 ("SIG Letter"); and Letter from Darren Story, dated March 21, 2014 ("Story Letter II").

<sup>6</sup> See Letter from Martha Redding, Chief Counsel, NYSE Euronext, dated April 4, 2014 ("NYSE Arca Response").

<sup>7</sup> In Amendment No. 1, the Exchange revised the rule text for proposed Rule 6.47: (1) To clarify that Floor Brokers, when crossing two orders in open outcry, may not trade through any non-Customer bids or offers on the Consolidated Book that are priced better than the proposed execution price; and (2) to conform the term "bids and offers" to "bids or offers" in paragraphs (a) and (c) thereunder. Amendment No. 1 has been placed in the public comment file for SR-NYSEArca-2014-04 at <http://www.sec.gov/comments/sr-nysearca-2014-04/nysearca201404.shtml> (see letter from Martha Redding, Chief Counsel, NYSE Euronext, to Kevin M. O'Neill, Deputy Secretary, Commission, dated April 30, 2014) and also is available on the Exchange's Web site at [http://www.nyse.com/nyse/notices/nysearca/rule-filings/pdf.action;jsessionid=FACF4F6772B1316D973F5D4E2D258ACE?file\\_no=SR-NYSEArca-2014-04&seqnum=2](http://www.nyse.com/nyse/notices/nysearca/rule-filings/pdf.action;jsessionid=FACF4F6772B1316D973F5D4E2D258ACE?file_no=SR-NYSEArca-2014-04&seqnum=2).

<sup>8</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>9</sup> See Rule 6.32 (Market Maker Defined).

<sup>10</sup> See Rule 6.43 (Options Floor Broker Defined).

<sup>11</sup> The term "Crowd Participants" means the Market Makers appointed to an option issue under Rule 6.35, and any Floor Brokers actively representing orders at the best bid or offer on the Exchange for a particular option series. See Rule 6.1(b)(38).

<sup>12</sup> A non-Customer is a market participant who does not meet the definition of Customer as defined in paragraph (c)(6) of Rule 15c3-1 under the

Securities Exchange Act of 1934, 17 CFR 240.15c3-1. See Rule 6.1(b)(29).

<sup>13</sup> The Exchange also proposed to make non-substantive changes to existing rule text contained in Rules 6.47 and 6.75. See Notice, 79 FR at 6260 for a description of these non-substantive changes.

<sup>14</sup> See Rule 1.1(i).

<sup>15</sup> The term "Consolidated Book" means the Exchange's electronic book of limit orders for the accounts of Public Customers and broker-dealers, and Quotes with Size. See Rule 6.1(b)(37).

<sup>16</sup> See Notice, 79 FR at 6258. The Exchange stated that Crowd Participants could negotiate a transaction with an understanding of the make-up of bids and offers on the Consolidated Book at the beginning of open outcry. However, as the trade is executed, the Consolidated Book could update with newly-arriving electronically-entered bids and offers that have priority under current Rule 6.75(a). The Exchange noted that, given the speed at which quotes can flicker in the Consolidated Book, Crowd Participants who have agreed to a transaction in open outcry do not know if they will actually participate on the trade until after execution. *Id.* at 6258-59.

<sup>17</sup> See *supra* note 12.

<sup>5</sup> 15 U.S.C. 78s(b)(2)(A)(ii)(I).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 71425 (January 28, 2014), 79 FR 6258 ("Notice").

<sup>4</sup> See Securities Exchange Act Release No. 71733 (March 18, 2014), 79 FR 16072 (March 24, 2014).

<sup>5</sup> See Letter from Darren Story, dated January 29, 2014 ("Story Letter I"); Letter from Abraham Kohen, AK FE Consultants LLC, dated January 31, 2014 ("Kohen Letter I"); Letter from David Spack, Chief Compliance Officer, Casey Securities, LLC, dated February 3, 2014 ("Casey Letter"); Letter from Abraham Kohen, AK FE Consultants LLC, dated February 4, 2014 ("Kohen Letter II"); Letter from Angel Alvira, dated February 12, 2014 ("Alvira Letter"); Letter from Donald Hart, dated February 12, 2014 ("Hart Letter I"); Letter from Doug Patterson, Chief Compliance Officer, Cutler Group, LP, dated February 13, 2014 ("Cutler Letter"); Letter