

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66403; File No. SR-EDGA-2012-05]

### Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Offering of a New Historical Data Feed Service to Members and Non-Members

February 15, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on February 10, 2012, EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing with the U.S. Securities and Exchange Commission (the "Commission") a proposed rule change to offer a new historical data feed service (the "Service") to Members<sup>3</sup> and non-Members of the Exchange. In connection with the same, the Exchange is proposing to amend its fee schedule applicable to Members and non-Members of the Exchange pursuant to Exchange Rules 15.1(a) and (c). The Exchange intends to implement the proposed rule change on February 13, 2012. The text of the proposed rule change is available on the Exchange's Web site at [www.directedge.com](http://www.directedge.com), at the Exchange's principal office, and at the Public Reference Room of the Commission.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has

prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

The Exchange proposes to begin offering a new Service, namely EdgeBook Cloud, that will allow Members and non-Members of the Exchange (collectively, referred to as purchasers ("Purchasers")) to obtain and query historical trade and quote data ("historical data") representing the real-time data feed previously disseminated through the EDGA Exchange book by the Exchange. The historical data service will provide Purchasers with data in a user-friendly, flexible manner for specified fees. Such Service will include the following three separate offerings:

##### EdgeBook Cloud Replay

The EdgeBook Cloud Replay offering will allow Members and non-Members of the Exchange to download a Multicast or Unicast<sup>4</sup> formatted replay of each trading day. The downloaded file will contain the exact messages that were disseminated via the Exchange book feed during the day requested, including any orders, executions, cancellations and status messages. Purchasers of the offering will be able to choose to obtain data grouped by different periods, including a rolling thirty day subscription or a calendar month request of as many months as desired. The initial launch of the service on February 13, 2012, will provide data from June 2011 until the present, with additional releases offered thereafter to provide data from October 2010 to the present.

The Exchange is proposing to charge to Purchasers a fee of \$500/month for the rolling thirty day replay<sup>5</sup> and, for a calendar month request, the Exchange is proposing to charge \$500/month requested with a cap of \$2500 if less than or equal to 1TB of data is

requested. If a Purchaser requests more than 1TB of data, it will be charged an additional \$2500 flat fee.<sup>6</sup>

##### EdgeBook Cloud FlexDownload

Purchasers of the EdgeBook Cloud FlexDownload ("FlexDownload") offering will be able to submit customized queries of trade or quote information for EDGA, and will be able to specify the time and symbol parameters, as well as other attributes to be retrieved. The requested data will be presented in a text file that can be easily imported into any tool for analysis. FlexDownload is a subscription-based offering that permits the Purchaser to choose a subscription level depending on the amount of data (in gigabytes) it estimates that it will download on a monthly basis. If a Purchaser downloads more data than is included in the subscription, an overage charge will be assessed for each additional gigabyte of data downloaded in that month.

Specifically, the Exchange is proposing to charge \$750/month for up to and including 200GB of data, \$1500/month for greater than 200GB of data but less than or equal to 800GB of data, and \$2500/month for greater than 800GB but less than or equal to 1TB of data. For the first two levels (\$750 and \$1500/month for FlexDownload), the Exchange is proposing to charge a \$5/GB overage charge for any overage beyond paid subscription. For the third level (\$2500/month), the Exchange is proposing to charge a \$3/GB overage charge beyond the paid subscription level.

##### EdgeBook Cloud Snapshot

The EdgeBook Cloud Snapshot offering<sup>7</sup> will provide standard queries that can be accessed on-demand directly by a user, or through an Application Programming Interface ("API")<sup>8</sup> that permits query results to be downloaded into a Purchaser's database or displayed on their Web site. Standard queries include various quote and trade requests, as well as a combined quote and trade view for a requested symbol. The offering is subscription-based; the subscription level will be determined

<sup>4</sup> In computer networking, multicast is the delivery of a message or information to a group of destination computers simultaneously in a single transmission from the source. Unicast transmission is the sending of messages to a single network destination identified by a unique address. For EdgeBook Cloud, the protocol used is relevant in that the message formats vary between the Unicast and Multicast disseminated feeds, and subscribers to the Service may want to download historical data in the same format currently used to receive the real-time market data feed.

<sup>5</sup> There is no physical delivery associated with this particular EdgeBook Cloud Replay offering and, thus, no delivery charges will apply to it.

<sup>6</sup> Although the size of the dataset can vary from day to day based on market activity, the average size per day is 3.5GB, and the data is then compressed to roughly 25% of that size, or .88GB, based on the compression technique chosen by the Purchaser. The compressed data size is used for evaluating appropriate fees.

<sup>7</sup> There are no physical deliveries associated with any of the EdgeBook Cloud Snapshot offerings and, thus, no delivery charges will apply to them.

<sup>8</sup> An API facilitates information sharing by acting as a "go-between" that enables a software program to interact with other software.

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

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

<sup>3</sup> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

based on the number of “Hits”<sup>9</sup> a Purchaser will use within the month. The number of Hits can increase based on the number of days or the Activity Level<sup>10</sup> of the security. The Activity Level is high, medium or low, based on the average quotes and trades per day (reviewed over a three month period), and relates to a multiplier that increases Hit quantity. For example, if a Purchaser queries a symbol for two days, the Purchaser would be charged for two days (or two Hits) multiplied by a high Activity Level of three, for a total of six Hits. If a Purchaser uses more Hits than subscribed to for two consecutive months, the Purchaser’s subscription will be automatically upgraded to the next level for the upcoming month. However, the Purchaser will be able, at any time, to request a downgrade or upgrade to any other subscription level.

As described in the Exchange’s fee schedule, the Exchange is proposing to charge \$100 per 500 Hits per month, \$250/2,500 Hits per month, \$500/10,000 Hits/month, \$750/50,000 Hits per month, and \$1,000 per 250,000 Hits/month.

Historical data can be used to support many applications, including financial market research and analysis, back-testing of new trading strategies to gauge effectiveness, and quality control checks of changes to trading or data dissemination software. The Exchange proposes to make the Service readily available to its Members and non-Members to download historical data through secure Internet connections. To compensate the Exchange for the costs of storage and data dissemination associated with providing the Service, the Exchange proposes to charge users monthly fees for the ability to download and query the historical data. The

proposed fees vary based on the type of offering provided, as set forth in Exhibit 5, and as described above. Furthermore, historical data can be retrieved in many forms, including an FTP download, a distribution to an Amazon S3 account or, for some of the subscription levels, a delivery of an external disk drive through postal mail and, if the Purchaser requests external disk drive delivery, it will be charged at cost for the media and the delivery charge. All such fees and costs relate to the provision of the Service offerings, *i.e.*, the ability to query the historical data in the manners offered. The data itself remains available at no cost to Members and non-Members of the Exchange.

#### Additional Discussion Regarding the Proposed Historical Data Services

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data services to the public. The Commission believed this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. EdgeBook Cloud appears to be precisely the sort of market data service that the Commission envisioned when it adopted Regulation NMS. The Service will offer Exchange-specific data in a new form not previously available to market data consumers, yet in a manner similar to that provided by other market centers.<sup>11</sup> It will allow market participants to purchase a Service that may be used to query historical data from the Exchange while at the same time enabling the Exchange to better cover its infrastructure costs and to improve its market technology and services. Finally, EdgeBook Cloud will better enable market participants to conduct Exchange-specific analyses to meet their needs.

The Exchange intends to implement the proposed rule change on February 13, 2012.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act in general and furthers the objectives of Section 6(b)(4)<sup>12</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among Members and non-Members using its facilities. First, the Service is optional and fees charged for

the Service will be the same for both Members and non-Members. Second, the Service will be provided in a variety of packages, including on an ongoing or an as-needed basis, intended to allow purchase of such access in the manner that best meets the needs of, and is most cost efficient for, the Purchaser. The fees reflect the differing offerings that any Purchaser may choose. In addition, higher fees are associated with increasing amounts of data (*i.e.*, more gigabytes) requested by the Purchaser of the Service or more hits/month, depending on the Service, as described above, as increasing amounts of data requested require the Exchange to utilize more infrastructure/storage to accommodate the Purchaser’s requests. Further, to the extent subscribers do subscribe to/purchase the Service, they will avoid the costs of storing the data themselves.<sup>13</sup> Third, the revenue generated by the Service will pay for the development, marketing, technical infrastructure and operating costs of an important tool for market participants and researchers to use for purposes of analysis and testing. Profits generated above these costs will help offset the costs that the Exchange incurs in operating and regulating a highly efficient and reliable platform for the trading of U.S. equities. This increased revenue stream will allow the Exchange to offer an innovative Service at a reasonable rate, consistent with other SROs who provide market data products.<sup>14</sup>

The Exchange also believes that the proposed fees are consistent with Section 6(b)(5) of the Act,<sup>15</sup> which requires, among other things, that the Exchange’s rules not be designed to unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the fees proposed for the Service are equitable because the Service is purely optional and because the data itself can be obtained at no cost whether or not a

<sup>13</sup> The Exchange notes that this statement is in no way intended to relieve Purchasers of their obligations with respect to maintaining books and records pursuant to applicable securities laws.

<sup>14</sup> See Nasdaq Rule 7022. See also [www.nyxdata.com](http://www.nyxdata.com) for information regarding NYSE OpenBook History and ArcaBook FTP, historical data products offered by the NYSE and NYSE Arca, respectively. See also Securities Exchange Act Release No. 55790 (May 21, 2007), 72 FR 29565 (May 29, 2007) (SR–NASDAQ–2007–039). See also Securities Exchange Act Release No. 52112 (July 22, 2005), 70 FR 43917 (July 29, 2005) (SR–NASDAQ–2005–060). See also Securities Exchange Act Release No. 63351 (Nov. 19, 2010), 75 FR 73140 (Nov. 29, 2010) (SR–Phlx–2011–154). See also Securities Exchange Act Release No. 61885 (Apr. 9, 2010), 75 FR 20018 (Apr. 16, 2010) (SR–BATS–2010–002) (order approving proposed rule change to offer certain BATS Exchange Data Products).

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

<sup>9</sup> A Hit is defined as a query for a symbol/day.

<sup>10</sup> An Activity Level is a multiplier that is related to the total quantity of quotes and trades, on the Exchange, of a given security relative to the quantity of quotes and trades of all other securities trading on the Exchange. Activity Levels are High (3), Medium (2), or Low (1), and are determined on a monthly basis pursuant to a review of the previous three month’s activity for the security. For a security to be considered Level 1, the combined quotes and trades on the Exchange must be less than .05% of the total quantity of quotes and trades on the Exchange for the calendar month. For a Level 2 security, the combined quotes and trades on the Exchange must be greater than .05% and less than .25% of the total for the calendar month. Finally, for a Level 3 security, the combined quotes and trades on the Exchange must be greater than .25% of the total for the calendar month. The security Activity Levels for each of the three previous months are then averaged to create the final Activity Level multiplier for the security. Direct Edge will notify Purchasers in advance of any changes to the percentage bands. Activity Levels are posted on the EdgeBook Cloud Web site so Purchasers may determine their potential costs for requesting data prior to doing so.

<sup>11</sup> See *infra*, footnote 14.

<sup>12</sup> 15 U.S.C. 78f(b)(4).

Member or non-Member subscribes to the Service.<sup>16</sup> Purchase of the Service is not a prerequisite for participation on the Exchange, nor is membership to the Exchange a prerequisite to purchase of the Service. Only those Purchasers that deem the product to be of sufficient overall value and usefulness will purchase it. Moreover, the fees will apply uniformly to all Purchasers of the Service irrespective of whether the Purchaser is a Member of the Exchange.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>17</sup> and Rule 19b-4(f)(6) thereunder.<sup>18</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal will give Purchasers the ability to better organize

and sort historical trade and quote data and is substantially similar to those of other exchanges.<sup>19</sup> Further, waiver of the operative delay would provide access to historical trade and quote data without delay. Therefore, the Commission designates the proposal operative upon filing.<sup>20</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **IV. Solicitation of Comments**

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

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGA-2012-05 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-EDGA-2012-05. 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 a.m. and 3 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-EDGA-2012-05 and should be submitted on or before March 14, 2012.

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

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

[FR Doc. 2012-4008 Filed 2-21-12; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-66402; File No. SR-EDGX-2012-05]

### **Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Offering of a New Historical Data Feed Service to Members and Non-Members**

February 15, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on February 10, 2012, EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing with the U.S. Securities and Exchange Commission (the "Commission") a proposed rule change to offer a new historical data feed service (the "Service") to Members<sup>3</sup> and non-Members of the

<sup>16</sup> On a daily basis, a real-time data feed is disseminated by the Exchange. Members and non-Members of the Exchange can opt to gather such data and use it to create an historical record themselves rather than subscribe to the Service for the purpose of obtaining and querying historical data.

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied the five-day pre-filing requirement.

<sup>19</sup> See *supra* note 14.

<sup>20</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>21</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> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.