

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68831; File No. SR-EDGX-2013-03]

### Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

February 5, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 30, 2013, EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its fees and rebates applicable to Members<sup>3</sup> and non-Members of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members and non-Members. The text of the proposed rule change is available on the Exchange's Internet 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

In SR-EDGX-2010-06,<sup>4</sup> the Exchange proposed to adopt an annual fee per physical port utilized by Members and non-Members to connect to the Exchange's System<sup>5</sup> for order entry and the receipt of Exchange data, among other reasons. A physical port is a port used by a Member or non-Member to connect into the Exchange at the data centers where Exchange servers are located. Physical port connections can occur either through an external telecommunication circuit or a cross-connection. The Exchange noted at the time of filing that other market centers provided similar services.<sup>6</sup>

In SR-EDGX-2010-21,<sup>7</sup> the Exchange amended its fee schedule, effective January 1, 2011, to allow Members and non-Members the option of paying monthly fees for physical ports used to enter orders in the Exchange's System.

The Exchange proposes to amend its fee schedule to eliminate the option for Members and non-Members to pay for physical ports on an annual basis. The Exchange's current monthly rates that it charges Members and non-Members for physical ports remains unchanged; therefore, the Exchange will assess a monthly fee of \$500 per physical port that connects to the Exchange's System via 1 gigabyte Copper circuits; \$750 per physical port that connects to the Exchange's System via 1 gigabyte Fiber circuits; and \$1,000 per physical port that connects to the Exchange's System via 10 gigabyte Fiber circuits. In addition, the Exchange proposes to prorate for the month of January 2013 only the annual fee paid by Members or non-Members who currently have annual billing as of January 1, 2013 and then convert those Members or non-Members to monthly billing starting in February 2013, subject to the execution of a new contract that the Exchange has distributed to all Members and non-

Members to reflect this change.<sup>8</sup> Furthermore, Direct Edge represents that its Members and non-Members who currently have annual contracts for physical ports have either consented to be converted to a month-to-month contract at the proposed rates, or elected to terminate their contract because they no longer require the service.

The Exchange proposes to implement these amendments to its fee schedule on February 1, 2013. Members and Non-Members were notified of the planned changes on November 8, 2012 and through subsequent direct communication.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>10</sup> in particular, as it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposal represents an equitable allocation of reasonable dues, fees, and other charges as its billing for port fees is reasonably constrained by competitive alternatives. For example, the change to monthly billing is reasonable because it is consistent with the monthly options offered by other exchanges, such as the BATS Exchange, Inc. ("BATS") and NASDAQ Stock Market LLC ("NASDAQ").<sup>11</sup> Furthermore, Members and other persons using the Exchange facilities also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members. Members and non-Members also have the ability to choose lower cost connection service types and still obtain access to all EDGX services.

Furthermore, the fees associated with physical ports will continue to be

<sup>8</sup> For example, Members or non-Members who are currently billed annually will pay \$416 per physical port for 1GB copper circuits (\$5,000 annual fee/12 months) for the month of January 2013 only and then shift to a monthly billing arrangement and pay \$500 per physical port from February 2013–December 2013 (monthly billing).

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> The Exchange notes that BATS and NASDAQ only allow for payment of physical port fees on a monthly basis. See BATS Exchange, Inc., BATS BZX and BYX Exchange Fee Schedules, [http://cdn.batstrading.com/resources/regulation/rule\\_book/BATS-Exchanges\\_Fee\\_Schedules.pdf](http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf); NASDAQ Stock Market LLC, Price List—Trading & Connectivity, <http://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2>.

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

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

<sup>3</sup> As defined in Exchange Rule 1.5(n).

<sup>4</sup> See Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599 (July 9, 2010) (SR-EDGX-2010-06).

<sup>5</sup> As defined in Exchange Rule 1.5(cc).

<sup>6</sup> See Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599, 39600 (July 9, 2010) (SR-EDGX-2010-06) (citing Securities Exchange Act Release No. 61545 (February 19, 2010), 75 FR 8769 (February 25, 2010) (SR-BATS-2009-032) and Securities Exchange Act Release No. 62392 (June 28, 2010), 75 FR 38857 (July 6, 2010) (SR-NASDAQ-2010-077)).

<sup>7</sup> See Securities Exchange Act Release No. 63520 (December 10, 2010), 75 FR 78794 (December 16, 2010) (SR-EDGX-2010-21).

equitably allocated and non-discriminatory as they will continue to be uniform in application to all Members and non-Members. Members and non-Members will continue to choose whether they want more than one physical port and choose the method of connectivity based on their specific needs.

The proposed rule change is also an equitable allocation of reasonable dues, fees, and other charges because, for Members and non-Members, the payment of physical connectivity fees on a monthly basis provides administrative benefits over payments made on an annual basis. For example, payment on a monthly basis allows Members and non-Members to opt-in or opt-out of physical connectivity on thirty (30) days' notice. Members and non-Members that choose to cancel their physical connectivity within the thirty (30) days' notice will have no recurring obligation.

Finally, the proposed rule change is also an equitable allocation of reasonable dues, fees, and other charges as the Exchange believes that the increased fees obtained through the monthly port fees over the course of a year over annual port fees (an increase of \$1,000 per year per port on all 1Gb copper circuits, \$1,500 per year per port on all 1Gb Fiber circuits, and \$2,000 per year per port on all 10 Gb Fiber circuits) will enable it to cover its increased infrastructure costs associated with allowing Members and non-Members to establish physical ports to connect to the Exchange's systems and continue to maintain and improve its infrastructure, market technology, and services. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members and non-Members. The Exchange believes the fees and monthly billing option remain competitive with those charged by other exchanges and therefore continue to be reasonable and equitably allocated to Members and non-Members.

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

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Proposing to eliminate payment for physical connectivity on an annual basis does not introduce a burden on competition as exchanges such as BATS and NASDAQ currently only allow payment for physical connectivity on a monthly basis.<sup>12</sup> In addition, the

proposed rule change does not impose any burden on intramarket competition as payment on a monthly basis is available to all Members and non-Members. In addition, Members and non-Members also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members.

Fees for market access will be a component of the overall fees charged by the Exchange to execute and route orders through the Exchange. As the Commission has recognized, the market for execution and routing services is extremely competitive.<sup>13</sup> Market participants that choose not to connect directly to the Exchange can readily access liquidity available on the Exchange by directing their order flow to other venues that, under Regulation NMS, must route to the Exchange if it has posted the best price. Accordingly, the Exchange must set its fees and billing options, including access service fees, at a level and in such a way that will not deter market participants from connecting to the Exchange; otherwise, potential users of the Exchange's services will simply direct order flow to the Exchange's multiple competitors.

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(2)<sup>15</sup> thereunder. 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.

<sup>13</sup> See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 19b-4(f)(2)[sic].

#### **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-EDGX-2013-03 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-EDGX-2013-03. 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-2013-03 and should be submitted on or before March 4, 2013.

<sup>12</sup> *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

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

[FR Doc. 2013-02951 Filed 2-8-13; 8:45 am]

BILLING CODE 8011-01-P

## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2012-0042]

### Assigning New Social Security Numbers (SSN) for Children Age 13 and Under

**AGENCY:** Social Security Administration (SSA)

**ACTION:** Notice; Request for Comments.

**SUMMARY:** We are considering changing our policy about assigning new SSNs to children age 13 and under. We are requesting information from the public to ensure that any policy changes we adopt appropriately address the unique issues associated with the misuse of an SSN for a child age 13 and under.

**DATES:** To ensure that your comments are considered, we must receive them no later than April 12, 2013.

**ADDRESSES:** You may submit written comments by any one of three methods—Internet, fax or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA-2012-0042, so that we may associate your comments with the correct activity.

**Caution:** You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as SSNs or medical information.

1. *Internet:* We strongly recommend this method for submitting your comments. Visit the Federal eRulemaking portal at <http://www.regulations.gov>. Use the Search function of the Web page to find docket number SSA-2012-0042, and then submit your comment. Once you submit your comment, the system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately as we must manually post each comment. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966-2830.

3. *Mail:* Mail your comments to the Office of Regulations and Reports

Clearance, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401.

Comments are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov>, or in person, during regular business hours, by arranging with the contact person identified below.

#### FOR FURTHER INFORMATION CONTACT:

Arthur LaVeck, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, 410-966-5665.

#### SUPPLEMENTARY INFORMATION:

##### Background

We began assigning nine-digit SSNs in 1936, and under normal procedures, we assign only one SSN to an individual during his or her lifetime. Assigning a single unique number to each individual allows us to ensure timely and accurate payment of retirement, disability, and other benefits to workers and their families. It also helps ensure the integrity of our record keeping.

We do not disclose SSNs except when authorized by law, and we keep number holders' records confidential. In addition, we have removed the SSN from many of our notices, greatly expanded electronic SSN verification services for employers, and provided public information on how to protect SSNs from inadvertent disclosure and misuse.

Despite our goal of limiting each person to a single SSN, we recognize that there are some situations where third-party misuse of an SSN may make it helpful to assign an individual a new SSN.

##### Current Policy

Under our current policy, if we have evidence that a third party has improperly used an adult's or child's SSN, the number holder was not at fault, and the number holder was recently disadvantaged by the misuse, we may assign a new SSN. However, before we issue a new SSN, we advise the number holder that a new number will not necessarily solve all his or her problems related to the SSN misuse. Because SSNs are widely used by other governmental agencies (such as the Internal Revenue Service and State motor vehicle agencies) and private businesses (such as banks and credit reporting companies), when we assign a new SSN, these institutions will still have records under the individual's old number. Additionally, because credit-reporting companies use the SSN to

help verify credit records, using a new SSN will not guarantee a fresh start for the number holder, particularly if the number holder's other personal information (such as his or her name and address) remains the same.

#### *What policy changes are we considering?*

We are considering a new policy for issuing a new SSN for children age 13 and under because of factors that apply only to children. First, because children age 13 and under generally have not worked, attempted to establish credit, or secured drivers licenses, their SSNs are not likely to be in widespread use among public and private entities. Second, misuse of a child's SSN may go undiscovered for many months or even years because children age 13 and under generally do not work or drive and have not attempted to establish credit. For these reasons, assigning a second SSN in these cases is less problematic for the person than it is for an individual with a work history, a driving record, and a credit history.

Under the policy we are considering, we would issue a new SSN for a child age 13 and under when:

- The child's Social Security card has been stolen while in transit from us to the child's address and the child's parent or guardian demonstrates to the Commissioner of Social Security that the child's Social Security card has been stolen in transit from SSA to the child's address.

- The child's SSN has been incorrectly disclosed through our publicly available Death Master File (DMF).

We receive approximately 2.5 million death reports each year from many sources, including family members, funeral homes, State and other Federal agencies, postal authorities, and financial institutions. Federal law permits us to disclose an extract of this death information. This extract, commonly referred to as the public DMF, includes the deceased individual's SSN, first name, middle name, surname, date of birth, and date of death. Unfortunately, in a small number of cases—less than one-half of one percent—we incorrectly include SSNs of living individuals in the public DMF; however, we remove that data from the public DMF as soon as possible.

- A third party has misused the child's SSN.

Some examples of misuse are a third party's application for credit using the child's SSN, use of the child's SSN to work, improper inclusion of the child's SSN on a tax return, or furnishing the

<sup>16</sup> 17 CFR 200.30-3(a)(12).