SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77394; File No. SR–
BatsEDGX–2016–02]

Self-Regulatory Organizations; Bats
EDGX Exchange, Inc.; Notice of Filing
and Immediate Effectiveness of a
Proposed Rule Change Related to Fees
for Use of the Exchange

March 17, 2016.

Pursuant to Section 19(b)(1) of the
Securities Exchange Act of 1934 (the
“Act”), 1 and Rule 19b–4 thereunder,2
notice is hereby given that on March 17,
2016, Bats EDGX Exchange, Inc. f/k/a
EDGX Exchange, Inc. (the “Exchange”
or “EDGX Exchange”) filed with the
Securities and Exchange Commission
(“Commission”) the proposed rule
change as described in Items I and II
below, which Items have been prepared
by the Exchange. The Exchange has
designated the proposed rule change as
one establishing or changing a member
due, fee, or other charge imposed by the
Exchange under Section 19(b)(3)(A)(ii)
of the Act 3 and Rule 19b–4(f)(2). 4

The text of the proposed rule change
is available at the Exchange’s Web site
at www.batstrading.com, at the
principal office of the Exchange, and at
the Commission’s Public Reference
Room.

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

The Exchange filed a proposal to
amend the fee schedule applicable to
Members 5 and non-members of the
Exchange pursuant to EDGX Rules
15.1(a) and (c) (“Fee Schedule”) to: (i)
Increase the rebate for Retail Orders 6
that yield fee code ZA; (ii) delete the
Retail Order Tier under footnote 4; (iii)
amend or delete various Add Volume
Tiers under footnote 1; and (iv) amend
the Tape B Step Up Tier under footnote 2.

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the Commission’s Public Reference
Room.

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

In its filing with the Commission, the
Exchange included statements
concerning the purpose of and basis for
the proposed rule change and discussed
any comments it received on the
proposed rule change. The text of these
statements may be examined at the
places specified in Item IV below. The
Exchange has prepared summaries, set
forth in Sections A, B, and C below, of
the most significant parts of such
statements.

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

1 Purpose

The Exchange proposes to amend its
Fee Schedule to: (i) Increase the rebate
for Retail Orders that yield fee code ZA;
(ii) delete the Retail Order Tier under
footnote 4; (iii) amend or delete various
Add Volume Tiers under footnote 1; and
(iv) amend the Tape B Step Up Tier
under footnote 2.

Fee Code ZA and the Retail Order Tier

The Exchange proposes to increase
the rebate for Retail Orders that yield
fee code ZA and delete the Retail Order
Tier under footnote 4.7 First, the
Exchange proposes to increase the
rebate for Retail Orders that yield fee
code ZA from $0.0032 per share to
$0.0034 per share. Fee code ZA is
appended to Retail Orders that add
liquidity on the Exchange. In a related
change, the Exchange proposes to delete
the Retail Order Tier under footnote 4.8
Currently, under the Retail Order Tier,
a Retail Order that yields fee code ZA
will receive a rebate of $0.0034 per share
where that Member adds Retail
Orders that average at least 0.07% of
TCV.9 Going forward, Members would
receive a receive rebate of $0.0034 per
share for their Retail Orders that yield
fee code ZA without having to satisfy
certain add liquidity criteria. Providing
all Retail Orders that yield fee code ZA
a rebate of $0.0034 per share would
mirror the rebate currently provided by
the Nasdaq Stock Market LLC
(“Nasdaq”).10

Add Volume Tiers—Footnote 1

Currently, the Exchange determines
the liquidity adding rebate that it will
provide to Members using the
Exchange’s tiered pricing structure.
Under such pricing structure, a Member
will receive a rebate of anywhere
between $0.0025 and $0.0035 per share
executed, depending on the volume tier
for which such Member qualifies. The
Exchange currently offers thirteen
separate Add Volume Tiers under
footnote 1 of its Fee Schedule which
provide various enhanced rebates based
on the Members satisfying certain
monthly volume thresholds. The
Exchange now proposes to amend or
delete various tiers under footnote 1 in
order to update, streamline, and simply
its tiered pricing structure.

Tiers To Be Deleted

First, the Exchange proposes to delete
the Market Depth Tier 1 and Market

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Footnote 4 would continue to note that
Members will only be able to designate their orders as Retail Orders on either an order-by-order basis using FIX ports or by designating certain of their
FIX ports at the Exchange as “Retail Order Ports.”

As a result of deleting the Retail Order Tier
under footnote 4, the Exchange proposes to
deliberately reference to footnote 4 in the Standard Rates table
of its Fee Schedule.

See Nasdaq Price List—Trading Connectivity
available at http://www.nasdaqtrader.com/
Trader.aspx?Id=PriceListTrading2 (offering a rebate of $0.0034 per share to add displayed designated
liquidity).
Depth Tier 2. Under the Market Depth Tier 1, a Member receives a rebate of $0.003532 per share when that Member adds an ADV of at least 0.85% of the TCV, and adds an ADV of at least 4,000,000 shares as non-displayed orders that yield fee code HA. Under the Market Depth Tier 2, a Member receives a rebate of $0.0029 per share when that Member adds an ADV of at least 10,000,000 shares, and adds an ADV of at least 1,000,000 shares as Non-displayed orders that yield fee code HA. The Exchange believes deleting the Market Depth Tier 1 and the Market Depth Tier 2 is reasonable as Members would be able to receive similar rebates by achieving other tiers without the additional requirement of adding a certain volume of non-displayed orders. In addition, the Exchange proposes to delete Mega Step-Up Tier 1, Mega Step-Up Tier 2, and Mega Step-Up Tier 3. Under Mega Step-Up Tier 1, a Member receives a rebate of $0.0032 per share when they add an ADV of at least 0.12% of the TCV more than the Member’s added ADV from February 2011; and (ii) an ADV of at least 0.35% of the TCV. Under Mega Step-Up Tier 2, a Member receives a rebate of $0.0030 per share when they add an ADV of at least 0.12% of the TCV more than the Member’s added ADV from February 2011. Lastly, under Mega Step-Up Tier 3, a Member receives a rebate of $0.0028 per share when they add an ADV of at least 0.065% of the TCV more than the Member’s added ADV from February 2011. Each of these tiers require a Member add more liquidity than their added ADV from February 2011. The Exchange believes that each of these tiers have served their intended purpose of encouraging Members to increase their trading activity on the Exchange from February 2011 baseline. In addition, the Exchange believes that these tiers have become outdated by utilizing a baseline ADV that is approximately five years old. Therefore, the Exchange proposes to delete Mega Step-Up Tier 1, Mega Step-Up Tier 2, and Mega Step-Up Tier 3 from footnote 1 of its Fee Schedule.

Amendments to Mega Tiers 1, 2, and 3

The Exchange also proposes to amend the rebate and/or required criteria for the Mega Tier 1, Mega Tier 2, and Mega Tier 3. The Exchange proposes to amend Mega Tiers 1 and 3 by decreasing the applicable rebate and simplifying the criteria required to meet the tier. Under Mega Tier 1, a Member currently receives a rebate of $0.0035 per share where they satisfy the following three criteria: (i) Add or route a combined ADV of at least 4,000,000 shares prior to 9:30 a.m. or after 4:00 p.m.; (ii) add an ADV of at least 35,000,000 shares, including during both market hours and pre and post-trading hours; and (iii) has an “added liquidity” as a percentage of “added plus removed liquidity” of at least 85%. First, the Exchange proposes to simplify the criteria necessary to meet the tier by replacing the above three requirements with a single requirement that the Member add an ADV of at least 0.75% of TCV. Second, to reflect the simplified criteria, the Exchange proposes to decrease the rebate offered under Mega Tier 1 from $0.0035 per share to $0.0032 per share.

Under Mega Tier 3, a Member currently receives a rebate of $0.0032 per share where they satisfy the following two criteria: (i) Add or route a combined ADV of at least 1,500,000 shares prior to 9:30 a.m. or after 4:00 p.m.; and (ii) add an ADV of at least 0.75% of the TCV, including during both market hours and pre and post-trading hours. First, the Exchange proposes to simplify the criteria necessary to meet the tier by replacing the above two requirements with a single requirement that the Member add an ADV of at least 0.45% of TCV. Second, to reflect the tier’s simplified criteria, the Exchange proposes to decrease the rebate offered by Mega Tier 3 from $0.0032 per share to $0.0031 per share.

The Exchange also proposes to increase the criteria necessary to achieve Mega Tier 2. Under Mega Tier 2, a Member currently receives a rebate of $0.0032 per share where they: (i) Add or route a combined ADV of at least 4,000,000 shares prior to 9:30 a.m. or after 4:00 p.m.; and (ii) add an ADV of at least 0.20% of the TCV, including during both market hours and pre and post-trading hours. The Exchange proposes to amend the second requirement under Mega Tier 2 by increasing the add ADV from at least 0.20% of the TCV to at least 0.50% of TCV, including during both market hours and pre and post-trading hours. The Exchange believes the amendment to Mega Tier 2 is reasonable because increasing the criteria necessary to meet the tier reflects the amount of the rebate provided as compared to that necessary to achieve the next best tier, Mega Tier 1.

Amendments to the Ultra Tier, Super Tier, Growth Tier, and Investor Tier

The Exchange also proposes to amend the Ultra Tier, Super Tier, Growth Tier, and Investor Tier by altering the tiers’ rebate and/or required criteria in order to incorporate a tiered rebate structure that is in relation to the Member’s added ADV of at least a certain percentage of TCV. First, under the Ultra Tier, a Member receives a rebate of $0.0031 per share where they add an ADV of at least 0.50% of the TCV. The Exchange proposes to ease the criteria necessary to meet the tier by reducing the add ADV requirement to be at least 0.30% of TCV, rather than 0.50% of TCV. To reflect the easing of the tier’s required criteria, the Exchange also proposes to decrease the rebate offered by the Ultra Tier from $0.0031 per share to $0.0030 per share.

Under the Super Tier, a Member receives a rebate of $0.0028 per share where they add an ADV of at least 10,000,000 shares. The Exchange proposes to amend the tier to require that the Member add an ADV of at least 0.15% of the TCV, rather than 10,000,000 shares.

Under the Growth Tier, a Member receives a rebate of $0.0025 per share where they add an ADV of at least 5,000,000 shares. The Exchange proposes to amend the tier to require that the Member add an ADV of at least 0.08% of the TCV, rather than 5,000,000 shares.

Lastly, under the Investor Tier, a Member receives a rebate of $0.0032 per share where they satisfy the following two criteria: (i) Adds an ADV of at least 0.15% of the TCV; and (ii) has an “added liquidity” as a percentage of “added plus removed liquidity” of at least 85%. The Exchange proposes to amend the second requirement under the Investor Tier by increasing the add ADV from at least 0.15% of the TCV to at least 0.20% of TCV.

Tape B Step Up Tier

Under the Tape B Step Up Tier, Member’s orders yielding fee codes B 13 or 4 receive a rebate of $0.0027 per share where that Member adds an ADV of at least 600,000 shares in Tape B Securities more than the Member’s added ADV in Tape B Securities from August 2013. First the Exchange proposes to rename the Tape B Step Up Tier as the Tape B Volume Tier. Second, the Exchange proposes to update the criteria necessary to achieve the tier by removing the requirement that the Member add an ADV of at least 600,000 shares in Tape B Securities more than the Member’s added ADV in Tape B Securities from August 2013.

13 Fee code B is appended to orders in Tape B Securities that add liquidity.
14 Fee code 4 is appended to orders in Tape B Securities that add liquidity during the pre and post market.
the Exchange would require that the Member add an ADV of at least 0.02% of TCV in Tape B securities. The Exchange believes that the tier’s current criteria has served its intended purpose of encouraging Members to increase their trading activity on the Exchange in Tape B securities from an August 2013 baseline. In addition, the Exchange believes that this tier has become outdated by utilizing a baseline that is approximately two and a half years old and that the proposed criteria reflects a volume requirement reasonably related to the amount of the available rebate.

Implementation Date


2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,\footnote{15 U.S.C. 78f.} in general, and furthers the objectives of Section 6(b)(4).\footnote{15 U.S.C. 78f(b)(4).} In particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed tier is equitable and non-discriminatory in it would apply uniformly to all Members. The Exchange believes the rates remain competitive with those charged by other venues and, therefore, reasonable and equitably allocated to Members.

Volume-based rebates such as that proposed herein have been widely adopted by equities exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange’s market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes that the proposed tier revisions are a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because they will provide Members with an additional incentive to reach certain thresholds on the Exchange.

In particular, the Exchange believes the proposed revisions to footnote 1 are equitable, reasonable, and not unfairly discriminatory as they are designed to amend or delete various tiers resulting in an updated, streamlined, and simplified tiered pricing structure. As noted above, the Exchange currently offers thirteen separate tiers under footnote 1 of its Fee Schedule. Under the proposed rule change, the number of tiers offered under footnote 1 would decrease by nearly 50% from thirteen to seven. The Exchange believes that is reasonable to delete Mega Step-Up Tiers 1, 2, and 3 because it believes each of these tiers have served their intended purpose of encouraging Members to increase their trading activity on the Exchange from a February 2011 baseline. In addition, the Exchange believes that these tiers have become outdated by utilizing a baseline ADV that is approximately five years old. In addition, the Exchange believes deleting the Market Depth Tier 1 and the Market Depth Tier 2 is equitable, reasonable, and not unfairly discriminatory as Members would be able to receive similar rebates by achieving other tiers without the additional requirement of adding a certain volume of non-displayed orders.\footnote{See Mega Tier 2 under footnote 1 of the Fee Schedule (offering a rebate of $0.0032 per share), and the Super Tier under footnote 1 of the Fee Schedule (offering a rebate of $0.0028 per share).}

In addition, the Exchange believes its proposed changes to Mega Tier 1 and 3 are equitable, reasonable, and not unfairly discriminatory as they are designed to decrease the applicable rebate to reflect the proposed simplification of the criteria required to meet the tiers. The Exchange also believes the amendment to Mega Tier 2 is equitable, reasonable, and not unfairly discriminatory as increasing the criteria necessary to meet the tier reflects the amount of the rebate provided as compared to that necessary to achieve the next best tier, Mega Tier 1. In addition, the proposed amendments to the Ultra Tier, Super Tier, Growth Tier, and Investor Tier are designed to incorporate a rebate structure that is in relation to the Member’s added ADV of at least a certain percentage of TCV. The Exchange believes that these incentives are reasonable, fair and equitable, because the liquidity from each of these proposals also benefits all investors by deepening the Exchange’s liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member’s growth pattern and such increased volume increase potential revenue to the Exchange, and will also allocate the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange.

The Exchange also believes that its proposed revision to the Tape B Step Up Tier is also equitable, reasonable and not unfairly discriminatory. The tier as currently constructed has served its intended purpose of encouraging Members to increase their trading activity on the Exchange in Tape B securities from an August 2013 baseline. In addition, the Exchange believes that this tier has become outdated by utilizing a baseline that is approximately two and a half years old. The Exchange also believes the proposed amendment to the Tape B Step Up Tier is a reasonable means to encourage Members to increase their liquidity in Tape B securities. The Exchange also believes providing a rebate of $0.0027 per share where a Member’s Tape B ADV as a percentage of TCV is equal to or greater than 0.02% is also equitable and reasonable. Such pricing rewards a Member’s growth pattern in Tape B securities and such increased volume, in turn, results in increased potential revenue to the Exchange, allowing the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange.

Lastly, the Exchange believes that increasing the rebate for Retail Orders that yield fee code ZA and delete the Retail Order Tier under footnote 4 represents an equitable allocation of reasonable dues, fees, and other charges because providing a uniform rebate for Retail Orders would encourage Members to send additional Retail Orders that add liquidity to the Exchange without having to meet certain volume requirements. The increased liquidity benefits all investors by deepering the Exchange’s liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Lastly, the proposed rebate
of $0.0034 per share for all Retail Orders is reasonable because it mirrors the rebate currently provided by Nasdaq.19

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe the proposed amendment to its Fee Schedule would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange’s competitors. Additionally, Members may opt to disfavor the Exchange’s pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange does not believe that the proposed tier revisions would burden competition, but instead, enhances competition, as they are intended to increase the competitiveness of and draw additional volume to the Exchange. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The proposed changes are generally intended to update, simplify, and streamline the Exchange’s tiered pricing structure, which the Exchange designed to attract additional liquidity. The Exchange believes that the proposed tier revisions will allow the Exchange to compete more ably with other execution venues by drawing additional volume to the Exchange, thereby making it a more desirable destination venue for its customers. The Exchange does not believe the proposed tier revisions would burden intramarket competition as they would apply to all Members uniformly.

Regarding the Retail Orders, the Exchange believes that its proposal to provide a uniform rebate to all Retail Orders will increase intermarket competition for Retail Orders because the proposed would mirror the rebate currently provided by Nasdaq.20 The Exchange believes that its proposal would neither increase nor decrease intramarket competition because the rebate would apply uniformly to all Members.

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 and paragraph (f) of Rule 19b–4 hereunder.21 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. Please include File Number SR–BatsEDGX–2016–02 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–BatsEDGX–2016–02, and should be submitted on or before April 13, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.22

Robert W. Errett,
Deputy Secretary.

[FR Doc. 2016–06514 Filed 3–22–16; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77400]


March 18, 2016.

I. Introduction

On June 15, 2011, the Securities and Exchange Commission (“Commission”) issued an exemptive order that provided guidance and certain exemptions with respect to the requirements under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”) that had an effective date of July 16, 2011 (i.e., the effective date of Title VII). With respect

Trader.aspx?id=PriceListTrading2 (offering a rebate of $0.0034 per share to add displayed designated retail liquidity).


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12 See Temporary Exemptions and Other Temporary Relief, Together With Information on Compliance Dates for New Provisions of the

Continued