

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62929; File No. SR-EDGX-2010-09)

September 17, 2010

Self-Regulatory Organizations; EDGX Exchange, Inc.; Order Approving a Proposed Rule Change Relating to a Revenue Sharing Program with Correlix, Inc.

On July 28, 2010, 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”),¹ and Rule 19b-4 thereunder,² a proposed rule change to establish a revenue sharing program with Correlix, Inc. (“Correlix”). The proposed rule change was published for comment in the Federal Register on August 13, 2010.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

In its proposal, EDGX described real-time analytical tools offered by Correlix to measure the latency of orders to and from the System, and also described the terms of the pricing and the revenue sharing agreement between Correlix and the Exchange. In addition, the Exchange represented that under the agreement, EDGX will receive 30% of the total monthly subscription fees received by Correlix from parties who have contracted directly with Correlix to use their RaceTeam latency measurement service for the Exchange. According to the Exchange, EDGX will not bill or contract with any Correlix RaceTeam customer directly.

Pricing for the Correlix RaceTeam product for the Exchange varies depending on the depth of latency information requested, the number of unique MPIDs subscribed by the customer, and the number of ports available for monitoring by Correlix. For boundary-level

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 62682 (August 10, 2010), 75 FR 50029.

Exchange latency information,⁴ the fee will be an initial \$1,500 monthly base fee for the first 25 ports associated in aggregate with any of the MPIDs selected by the Member for latency monitoring. For each additional 25 ports associated in aggregate with any of the MPIDs selected by the Member for latency monitoring, an additional monthly charge of \$750 will be assessed. For match-level Exchange latency information,⁵ the fee will be an initial \$2,000 monthly base fee for the first 25 ports associated in aggregate with any of the MPIDs selected for latency monitoring, and an additional \$1000 per month for each additional 25 ports associated in aggregate with any of the MPIDs selected for latency monitoring.

According to the Exchange, Correlix will see an individualized unique Exchange-generated identifier that will allow Correlix RaceTeam to determine round-trip order time,⁶ from the time the order reaches the Exchange extranet, through the Exchange matching engine, and back out of the Exchange extranet. In its proposal, the Exchange represented that the RaceTeam product offering does not measure latency outside of the Exchange extranet. Further, EDGX stated that the unique identifier serves as a technological information barrier so that the RaceTeam data collector will only be able to view data for Correlix RaceTeam subscriber firms related to latency. Accordingly, Correlix will not see subscriber's individual order detail such as security, price or size; individual RaceTeam subscribers' logins will restrict access to only their

⁴ The time that elapses from an order message's receipt by an Exchange device until the time that a matching engine acknowledgement with respect to such order message is transmitted from the Exchange device back to the user. For market data, the time measurement will be from the time that the market data engine receives a market data update until the time that the market data update is transmitted from the Exchange device back to the user.

⁵ In addition to the boundary-level Exchange latency information, match level information will also provide further elapsed time detail for messaging between Exchange internal systems.

⁶ According to EDGX, the product measures latency of orders regardless of whether the orders are rejected, executed, or partially executed.

own latency data; and Correlix will not see specific information regarding the trading activity of non-subscribers.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ which requires 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 with Section 6(b)(5) of the Act,⁹ which requires, among other things, that that the rules of a national securities exchange be 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 not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Pursuant to the arrangement, EDGX makes the RaceTeam product uniformly available to all customers who voluntarily request it and pay the fees as detailed in the proposal, pursuant to a standard non-discriminatory pricing schedule. In addition, the Commission believes that the proposal will further the protection of investors and the public interest because: (1) Correlix will only be able to view data related to latency for Correlix RaceTeam subscriber firms; (2) Correlix will not see a subscriber's individual order detail such as security, price or size; (3) individual RaceTeam subscribers' logins will restrict access to only their own latency data; and

⁷ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78f(b)(5).

(4) Correlix will not see specific information regarding the trading activity of non-subscribers.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-EDGX-2010-09) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).