

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62617; File No. SR-NASDAQ-2010-092)

July 30, 2010

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Add Seventy-Five Options Classes to the Penny Pilot Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on July 22, 2010, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, which Items have been prepared by Nasdaq. 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

Nasdaq is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposal for the NASDAQ Options Market ("NOM" or "Exchange") to designate seventy-five options classes to be added to the Penny Pilot Program ("Penny Pilot" or "Pilot") on August 2, 2010.<sup>3</sup> The Exchange is not proposing to amend any rule text, but simply administering or enforcing an existing rule.<sup>4</sup>

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

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

<sup>3</sup> The Penny Pilot was established in March 2008 and in October 2009 was expanded and extended through December 31, 2010. See Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008)(SR-NASDAQ-2008-026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR-NASDAQ-2009-091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR-NASDAQ-2009-097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR-NASDAQ-2010-013) (notice of filing and

The text of the proposed rule change is available from Nasdaq's website at <http://nasdaq.cchwallstreet.com/Filings/>, at Nasdaq's principal office, and at 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, Nasdaq 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. Nasdaq 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 purpose of this filing is to identify the next seventy-five options classes to be added to the Penny Pilot effective August 2, 2010.

In the Exchange's immediately effective filing to extend and expand the Penny Pilot through December 31, 2010,<sup>5</sup> the Exchange proposed expanding the Pilot four times on a quarterly basis. Each such quarterly expansion would be of the next seventy-five most actively traded multiply listed options classes based on the national average daily volume ("ADV") for the six months prior to selection, closing under \$200 per share on the Expiration Friday prior to

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immediate effectiveness adding seventy-five classes to Penny Pilot); and 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR-NASDAQ-2010-053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot).

<sup>4</sup> See Chapter VI, Section 5 regarding the Penny Pilot.

<sup>5</sup> See Securities Exchange Act Release No. 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR-NASDAQ-2009-091) (notice of filing and immediate effectiveness).

expansion; however, the month immediately preceding the addition of options to the Penny Pilot will not be used for the purpose of the six month analysis. Index option products would be included in the quarterly expansions if the underlying index levels were under 200.

The Exchange is identifying, in the chart below, seventy-five options classes that it will add to the Penny Pilot on August 2, 2010, based on ADVs for the six months ending June 30, 2010.

Nat'l Ranking	Symbol	Security Name	Nat'l Ranking	Symbol	Security Name
199	MBI	MBIA Inc	316	CB	Chubb Corp
205	MA	Mastercard Inc	320	ADM	Archer-Daniels-Midland Co
224	ATPG	ATP Oil & Gas Corp/United States	322	HSY	Hershey Co/The
226	YUM	Yum! Brands Inc	323	TXT	Textron Inc
232	RCL	Royal Caribbean Cruises Ltd	324	GGP	General Growth Properties Inc
238	BPOP	Popular Inc	325	NOV	National Oilwell Varco Inc
248	EK	Eastman Kodak Co	326	TWX	Time Warner Inc
252	CNX	Consol Energy Inc	327	XOP	SPDR S&P Oil & Gas Exploration & Production ETF
260	DCTH	Delcath Systems Inc	328	MYL	Mylan Inc/PA
274	MTG	MGIC Investment Corp	329	TSO	Tesoro Corp
277	PXP	Plains Exploration & Production Co	330	CI	CIGNA Corp
278	GPS	Gap Inc/The	331	ESI	ITT Educational Services Inc
280	TSL	Trina Solar Ltd	332	NKE	NIKE Inc
282	EWV	iShares MSCI Mexico Investable Market Index Fund	335	FIS	Fidelity National Information Services Inc
283	CRM	Salesforce.com Inc	336	SUN	Sunoco Inc
286	SWN	Southwestern Energy Co	338	BBBY	Bed Bath & Beyond Inc
287	HBAN	Huntington Bancshares Inc/OH	340	APWR	A-Power Energy Generation Systems

					Ltd
288	EOG	EOG Resources Inc	341	FWLT	Foster Wheeler AG
290	APA	Apache Corp	342	LNC	Lincoln National Corp
291	VVUS	Vivus Inc	343	RSH	RadioShack Corp
292	JDSU	JDS Uniphase Corp	344	TYC	Tyco International Ltd
293	ACI	Arch Coal Inc	345	CL	Colgate-Palmolive Co
294	NE	Noble Corp	346	FXP	ProShares UltraShort FTSE/Xinhua China 25
296	BAX	Baxter International Inc	347	NTAP	NetApp Inc
297	ADSK	Autodesk Inc	348	SO	Southern Co
299	KRE	SPDR KBW Regional Banking ETF	349	PHM	Pulte Group Inc
300	XL	XL Group Plc	350	HOT	Starwood Hotels & Resorts Worldwide Inc
302	WLT	Walter Energy Inc	351	QLD	ProShares Ultra QQQ
303	IBN	ICICI Bank Ltd	352	VRSN	VeriSign Inc
305	EWY	iShares MSCI South Korea Index Fund	353	PCL	Plum Creek Timber Co Inc
306	WHR	Whirlpool Corp	354	NBR	Nabors Industries Ltd
307	BHI	Baker Hughes Inc	355	ESRX	Express Scripts Inc
308	KMP	Kinder Morgan Energy Partners LP	356	ACAS	American Capital Ltd
309	MRO	Marathon Oil Corp	357	XLNX	Xilinx Inc
310	AGO	Assured Guaranty Ltd	358	DO	Diamond Offshore Drilling Inc
311	GIS	General Mills Inc	359	CMA	Comerica Inc
312	ANR	Alpha Natural Resources Inc	360	KEY	KeyCorp
314	GENZ	Genzyme Corp			

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</sup> in particular, in that it is

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by identifying the options classes to be added to the Penny Pilot in a manner consistent with prior approvals and filings.

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

Nasdaq does not believe that the proposed rule change will result in 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

Written comments were neither solicited nor received.

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

The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A)<sup>8</sup> of the Act and Rule 19b-4(f)(1)<sup>9</sup> thereunder as it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. 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.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(1).

#### 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2010-092 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-NASDAQ-2010-092. This file number should be included on the subject line if e-mail 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 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 No. SR-NASDAQ-2010-092 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).