

Pursuant to the Exchange's proposed MRVP, under Rule 8.15, the Exchange may impose a fine (not to exceed \$2,500) on a member, an associated person of a member, or a registered or non-registered employee of a member with respect to any rule listed in Rule 8.15.01. The Exchange shall serve the person against whom a fine is imposed with a written statement setting forth the rule or rules allegedly violated, the act or omission constituting each such violation, the fine imposed, and the date by which such determination becomes final or by which such determination must be contested. If the person against whom the fine is imposed pays the fine, such payment shall be deemed to be a waiver of such person's right to a disciplinary proceeding and any review of the matter under Exchange rules. Any person against whom a fine is imposed may contest the Exchange's determination by filing with the Exchange a written response, at which point the matter shall become a disciplinary proceeding.

Upon approval of the plan, the Exchange will provide the Commission a quarterly report of actions taken on minor rule violations under the plan. The quarterly report will include the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation has occurred, and the date of disposition.⁷

The Commission finds that the proposed MRVP is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,⁸ which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and national market system, and, in general, to protect

national securities exchange, including the rules governing the EDGA Exchange. See Securities Exchange Act Release No. 61698, 75 FR 13151 (March 18, 2010). In the approval order, the Commission noted that EDGA Exchange Rule 8.15 provides for the imposition of fines for minor rule violations pursuant to a minor rule violation plan. Accordingly, the Commission noted that, EDGA Exchange Rule 8.15 provides for the imposition of fines for minor rule violations pursuant to a minor rule violation plan. Accordingly, the Commission noted that as a condition to the operation of EDGA Exchange, the Exchange must file a minor rule violation plan with the Commission.

⁷ EDGA Exchange attached a sample form of the quarterly report with its submission to the Commission.

⁸ 15 U.S.C. 78f(b)(5).

investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act⁹ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of the Commission and Exchange rules. In addition, because the MRVP offers procedural rights to a person sanctioned under Rule 8.15, the Commission believes that Rule 8.15 provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.¹⁰

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,¹¹ because the MRVP strengthens EDGA Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposal, the Commission in no way minimizes the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Rule 8.15. The Commission believes that the violation of an SRO's rules, as well as Commission rules, is a serious matter. However, Rule 8.15 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that EDGA Exchange will continue to conduct surveillance with due diligence and make determinations based on its findings, on a case-by-case basis, whether a sanction under the MRVP is appropriate, or whether a violation requires formal disciplinary action.

It is therefore ordered, pursuant to Rule 19d-1(c)(2) under the Act,¹² that the proposed MRVP for EDGA Exchange, File No. 4-595, be, and hereby is, approved and declared effective.

⁹ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

¹⁰ 15 U.S.C. 78f(b)(7) and 78f(d)(1).

¹¹ 17 CFR 240.19d-1(c)(2).

¹² *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62040; File No. SR-CBOE-2010-040]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adding 75 Options Classes to the Penny Pilot Program

May 5, 2010.

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 April 29, 2010, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III 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

CBOE proposes to amend proposes to amend [sic] its rules relating to the Penny Pilot Program. The text of the rule proposal is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary, at the Commission's Public Reference Room and on the Commission's Web site at <http://www.sec.gov>.

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries,

¹³ 17 CFR 200.30-3(a)(44).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE proposes to identify the 75 option classes that will be added to the

Penny Pilot Program on May 3, 2010, consistent with CBOE's rule filing to extend and expand the Program that was approved on October 22, 2010.³ As described in SR-CBOE-2009-76, the Pilot Program will be expanded by adding 300 option classes, in groups of 75 classes each quarter on the following dates: November 2, 2009, February 1, 2010, May 3, 2010, and August 2, 2010.⁴ The option classes will be identified

based on national average daily volume in the six calendar months preceding their addition to the Pilot Program using data compiled by The Options Clearing Corporation, except that the month immediately preceding their addition to the Pilot Program will not be utilized for purposes of the six month analysis.

The following 75 option classes will be added to the Pilot Program beginning on May 3, 2010:

| Symbol | Security name | Symbol | Security name |
|--------|--|--------|---------------------------------|
| GFI | Gold Fields Ltd | JCP | JC Penney Co Inc. |
| XLV | Health Care Select Sector SPDR Fund | ACL | Alcon IncCo Inc. |
| CIEN | Ciena Corp | STP | Suntech Power Holdings Co Ltd. |
| AMLN | Amylin Pharmaceuticals Inc | TLB | Talbots Inc. |
| CTIC | Cell Therapeutics Inc | SYMC | Symantec Corp. |
| MDT | Medtronic Inc | AMED | Amedisys Inc. |
| TIVO | TiVo Inc | TM | Toyota Motor Corp. |
| MNKD | MannKind Corp | HK | Petrohawk Energy Corp. |
| MDVN | Medivation Inc | ENER | Energy Conversion Devices Inc. |
| BRKB | Berkshire Hathaway Inc | STT | State Street Corp. |
| APOL | Apollo Group Inc | BHP | BHP Billiton Ltd. |
| BSX | Boston Scientific Corp | NFLX | NetFlix Inc. |
| XLY | Consumer Discretionary Sel. Sec. SPDR Fund | LDK | LDK Solar Co Ltd. |
| CLF | Cliffs Natural Resources Inc | SPG | Simon Property Group Inc. |
| ZION | Zions Bancorporation | TIF | Tiffany & Co. |
| IOC | InterOil Corp | BUCY | Bucyrus International Inc. |
| ITMN | InterMune Inc | WAG | Walgreen Co. |
| GME | GameStop Corp | IP | International Paper Co. |
| XLK | Technology Select Sector SPDR Fund | XME | SPDR S&P Metals & Mining ETF. |
| AKS | AK Steel Holding Corp | KGC | Kinross Gold Corp. |
| GRMN | Garmin Ltd | EP | El Paso Corp. |
| MRVL | Marvell Technology Group Ltd | SEED | Origin Agritech Ltd. |
| XLP | Consumer Staples Select Sector SPDR Fund | WIN | Windstream Corp. |
| UNP | Union Pacific Corp | DHI | DR Horton Inc. |
| DTV | DIRECTV | ADBE | Adobe Systems Inc. |
| WMB | Williams Cos Inc/The | PCX | Patriot Coal Corp. |
| MEE | Massey Energy Co | SPWRA | SunPower Corp. |
| CELG | Celgene Corp | LCC | US Airways Group Inc. |
| GMCR | Green Mountain Coffee Roasters Inc | PRU | Prudential Financial Inc. |
| WDC | Western Digital Corp | LEN | Lennar Corp. |
| DAL | Delta Air Lines Inc | EWT | iShares MSCI Taiwan Index Fund. |
| FXE | CurrencyShares Euro Trust | KBH | KB Home. |
| COST | Costco Wholesale Corp | CREE | Cree Inc. |
| MJN | Mead Johnson Nutrition Co | SIRI | Sirius XM Radio Inc. |
| ALL | Allstate Corp/The | MMR | McMoRan Exploration Co. |
| SII | Smith International Inc | CENX | Century Aluminum Co. |
| RTN | Raytheon Co | MT | ArcelorMittal. |
| DVN | Devon Energy Corp | | |

The minimum increments for all classes in the Penny Pilot (except for the QQQQs, IWM and SPY) are: \$0.01 for all option series below \$3 (including LEAPS), and \$0.05 for all option series \$3 and above (including LEAPS). The minimum increment for all option series in QQQQ, IWM and SPY is \$.01.

2. Statutory Basis

The Exchange believes the rule proposal is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes that the proposed rule change

is consistent with the Section 6(b)(5) Act⁶ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the proposed rule change allows for an expansion of the Penny Pilot Program for the benefit of market participants and identifies the option classes to be

³ See Securities Exchange Act Release No. 60864 (October 22, 2009), granting immediate effectiveness to SR-CBOE-2009-76. The Commission notes that this proposed rule change was submitted pursuant to Section 19(b)(3)(A)(iii) of the Act and was, therefore, effective upon filing. The Commission does not approve proposed rule

changes submitted pursuant to this section of the Act.

⁴ The classes to be added are among the most actively-traded, multiply-listed option classes that are not currently in the Pilot Program, excluding option classes with high premiums. An option class

would be designated as "high premium" if, at the time of selection, the underlying security was priced at \$200 per share or above, or the underlying index level was at 200 or above.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

added to the Pilot Program in a manner consistent with CBOE's rule filing SR-CBOE-2009-76 to extend and expand the Pilot Program.

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

CBOE does not believe that the proposed rule change will 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

No written comments were solicited or received with respect to the proposed rule change.

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)⁷ of the Securities Exchange Act of 1934 and Rule 19b-4(f)(1)⁸ 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 may summarily abrogate 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 e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2010-040 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-CBOE-2010-040. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at CBOE's principal office and on its Web site at <http://www.cboe.com>. 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-CBOE-2010-040 and should be submitted on or before June 2, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62048; File No. SR-ISE-2010-43]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees and Rebates for Adding and Removing Liquidity

May 6, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 3,

2010, International Securities Exchange, LLC ("ISE" or "Exchange") 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 Exchange. ISE has designated this proposal as one establishing or changing a member due, fee, or other charge imposed under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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 ISE is proposing to amend its Schedule of Fees in order to (i) increase the number of options classes to be included in the Exchange's current schedule of transaction fees and rebates for adding and removing liquidity; and (ii) adopt a rebate for certain orders executed in the Exchange's Price Improvement Mechanism. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at <http://www.sec.gov>.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to increase liquidity and attract order flow by amending its transaction fees and rebates for adding and removing

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(1).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).