

of the Act and Rule 19b-4(f)(6)(iii) thereunder.

At any time within the 60-day period beginning on the date 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGX-2010-08 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-2010-08. 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 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 publicly available. All submissions should refer to File Number SR-EDGX-2010-08 and should be submitted on or before August 25, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-19215 Filed 8-3-10; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62596; File No. SR-CBOE-2010-070]

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

July 29, 2010.

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 July 26, 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 and II 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 [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 and at the Commission.

[www.cboe.org/legal](http://www.cboe.org/legal)), at the Exchange's Office of the Secretary and at 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 those 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

CBOE proposes to identify the 75 option classes that will be added to the Penny Pilot Program on August 2, 2010, consistent with CBOE's rule filing to extend and expand the Program that was granted immediate effectiveness on October 22, 2010.<sup>3</sup> 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.<sup>4</sup> 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 August 2, 2010:

<sup>3</sup> See Securities Exchange Act Release No. 60864 (October 22, 2009), granting immediate effectiveness to SR-CBOE-2009-76.

<sup>4</sup> 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.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

Symbol	Security name	Symbol	Security name
MBI .....	MBIA Inc .....	CB .....	Chubb Corp.
ATPG ...	ATP Oil & Gas Corp/United States .....	ADM ...	Archer-Daniels-Midland Co.
YUM ...	Yum! Brands Inc .....	HSY ...	Hershey Co/The.
RCL .....	Royal Caribbean Cruises Ltd .....	TXT ...	Textron Inc.
BPOP ..	Popular Inc .....	GGP ...	General Growth Properties Inc.
EK .....	Eastman Kodak Co .....	NOV ...	National Oilwell Varco Inc.
CNX ...	Consol Energy Inc .....	TWX ...	Time Warner Inc.
MA .....	Mastercard Inc .....	XOP ...	SPDR S&P Oil & Gas Exploration & Production ETF.
DCTH ..	Delcath Systems Inc .....	MYL ...	Mylan Inc/PA.
MTG ...	MGIC Investment Corp .....	TSO ...	Tesoro Corp.
PXP ...	Plains Exploration & Production Co .....	CI .....	CIGNA Corp.
GPS .....	Gap Inc/The .....	ESI .....	ITT Educational Services Inc.
TSL .....	Trina Solar Ltd .....	NKE .....	NIKE Inc.
EWV ...	iShares MSCI Mexico Investable Market Index Fund .....	FIS .....	Fidelity National Information Services Inc.
CRM ...	Salesforce.com Inc .....	SUN ...	Sunoco Inc.
SWN ...	Southwestern Energy Co .....	BBBY ..	Bed Bath & Beyond Inc.
HBAN ..	Huntington Bancshares Inc/OH .....	APWR ..	A–Power Energy Generation Systems Ltd.
EOG ...	EOG Resources Inc .....	FWLT ..	Foster Wheeler AG.
APA .....	Apache Corp .....	LNC ...	Lincoln National Corp.
VVUS ...	Vivus Inc .....	RSH ...	RadioShack Corp.
JDSU ...	JDS Uniphase Corp .....	TYC ...	Tyco International Ltd.
ACI .....	Arch Coal Inc .....	CL .....	Colgate-Palmolive Co.
NE .....	Noble Corp .....	FXP ...	ProShares UltraShort FTSE/Xinhua China 25.
BAX .....	Baxter International Inc .....	NTAP ..	NetApp Inc.
ADSK ...	Autodesk Inc .....	SO .....	Southern Co.
KRE .....	SPDR KBW Regional Banking ETF .....	PHM ...	Pulte Group Inc.
XL .....	XL Group Plc .....	HOT ...	Starwood Hotels & Resorts Worldwide Inc.
WLT .....	Walter Energy Inc .....	QLD ...	ProShares Ultra QQQ.
IBN .....	ICICI Bank Ltd .....	VRSN ..	VeriSign Inc.
EWY. ...	iShares MSCI South Korea Index Fund .....	PCL .....	Plum Creek Timber Co Inc.
WHR ...	Whirlpool Corp .....	NBR ...	Nabors Industries Ltd.
BHI .....	Baker Hughes Inc .....	ESRX ..	Express Scripts Inc.
KMP .....	Kinder Morgan Energy Partners LP .....	ACAS ..	American Capital Ltd.
MRO ...	Marathon Oil Corp .....	XLNX ...	Xilinx Inc.
AGO ...	Assured Guaranty Ltd .....	DO .....	Diamond Offshore Drilling Inc.
GIS .....	General Mills Inc .....	CMA ...	Comerica Inc.
ANR .....	Alpha Natural Resources Inc .....	KEY ...	KeyCorp.
GENZ ..	Genzyme 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.<sup>5</sup> Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act<sup>6</sup> 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 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 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)<sup>7</sup> of the Securities Exchange Act of 1934 and Rule 19b–4(f)(1)<sup>8</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 the 60-day period beginning on the date 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:

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b–4(f)(1).

*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–CBOE–2010–070 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–2010–070. 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 the principal office of the CBOE. 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–CBOE–2010–070 and should be submitted on or before August 25, 2010.

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

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010–19222 Filed 8–3–10; 8:45 am]

**BILLING CODE 8010–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34–62595; File No. SR–BATS–2010–019]**

**Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Seventy-Five Options Classes to the Penny Pilot Program**

July 29, 2010.

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 July 26, 2010, BATS Exchange, Inc. (the “Exchange” or “BATS”) 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 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 is filing with the Commission a proposal for the BATS Exchange Options Market (“BATS Options”) to designate seventy-five options classes to be added to the Penny Pilot Program (“Penny Pilot”) on August 2, 2010. The Exchange is not proposing to amend any rule text, but simply administering or enforcing an existing rule.<sup>3</sup>

The text of the proposed rule change is available at the Exchange’s Web site at <http://www.batstrading.com>, at the principal office of the Exchange, 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, 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 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 filing to adopt rules to govern BATS Options,<sup>4</sup> the Exchange proposed commencing operations for BATS Options by trading all options classes that were, as of such date, traded by other options exchanges pursuant to the Penny Pilot and then expanding the Penny Pilot on a quarterly basis, 75 classes at a time, through August 2010. Each such quarterly expansion would be of the 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 expansion, except that the month immediately preceding the addition of options to the Penny Pilot would 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

<sup>9</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Rule 21.5 regarding the Penny Pilot.

<sup>4</sup> See Securities Exchange Act Release No. 61097 (December 2, 2009), 74 FR 64788 (December 8,

2009) (SR–BATS–2009–031) (Notice of Filing of Proposed Rule Change to Establish Rules Governing the Trading of Options on the BATS Options Exchange).