

unreasonably discriminatory fee and an equitable allocation of fees among all users. The existence of numerous alternatives to NQDS, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources ensures that NASDAQ cannot set unreasonable fees, or fees that are unreasonably discriminatory, without losing business to these alternatives. Accordingly, NASDAQ believes that the acceptance of the NQDS product in the marketplace demonstrates the consistency of these fees with applicable statutory standards.

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, as amended. As the Commission has recognized,¹² the market for transaction execution and routing services is highly competitive. Broker-dealers currently have numerous alternative venues for their order flow, including multiple competing self-regulatory organization markets, as well as broker-dealers and aggregators such as electronic communications networks. A member firm is able to select any venue of which it is a member or participant to send its order flow. As such, if member firms believe that the proposed fee for Supplemental MPIDs is excessive they may easily choose to move their order flow elsewhere. NASDAQ believes that its proposed fees are comparable to fees assessed by the NYSE for market access, but are set at lower levels than the corresponding NYSE fees. NASDAQ also believes that the proposed fee will encourage efficiency in member firms' use of MPIDs.

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.

¹² Specifically, the Commission stated: "Exchanges compete not only with one another, but also with broker-dealers that match customer orders within their own systems and also with a proliferation of alternative trading systems ('ATs') and electronic communications networks ('ECNs') that the Commission has also nurtured and authorized to execute trades in any listed issue. As a result, market share of trading fluctuates among execution facilities based on their ability to service the end customer. The execution business is highly competitive and exhibits none of the characteristics of a monopoly * * *." Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74775 (December 9, 2008) (SR-NYSEArca-2006-21).

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)¹³ of the Act. 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. Please include File Number SR-NASDAQ-2010-093 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-2010-093. 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, on official business days between the hours of 10 a.m. and

¹³ 15 U.S.C. 78s(b)(3)(A).

3 p.m. Copies of the 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 Number SR-NASDAQ-2010-093 and should be submitted on or before August 27, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,
Deputy Secretary.

[FR Doc. 2010-19333 Filed 8-5-10; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62617; File No. SR-NASDAQ-2010-092]

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

July 30, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² 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, 2010.³ The Exchange is not

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 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),

proposing to amend any rule text, but simply administering or enforcing an existing rule.⁴

The text of the proposed rule change is available from Nasdaq's Web site 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, 2010,⁵ 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 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.

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 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).

⁴ See Chapter VI, Section 5 regarding the Penny Pilot.

⁵ 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).

Nat'l ranking	Symbol	Security name	Nat'l ranking	Symbol	Security name
314	GENZ	Genzyme Corp.			

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ in particular, in that it is 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)⁸ of the Act and Rule 19b-4(f)(1)⁹ 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.

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-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 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 available publicly. All submissions should refer to File No. SR-NASDAQ-2010-092 and should be submitted on or before August 27, 2010.

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62602; File No. SR-CBOE-2010-069]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Minor Rule Violation Plan

July 24, 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 July 20, 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 proposes to amend CBOE Rule 17.50—*Imposition of Fines for Minor Rule Violations*. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/Legal>), at the Exchange's principal office, and at the Commission's Public Reference Room.

¹⁰ 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)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(1).