

information obligations of Rule 605. Each of these respondents is required to respond to the collection of information on a monthly basis.

The Commission staff estimates that, on average, Rule 605 causes respondents to spend 6 hours per month in additional time to collect the data necessary to generate the reports, or 72 hours per year. With an estimated 408 market centers subject to Rule 605, the total data collection cost to comply with the monthly reporting requirement is estimated to be 29,376 hours per year.

Rule 606 of Regulation NMS ("Rule 606"), formerly known as Rule 11Ac1-6, requires broker-dealers to prepare and disseminate quarterly order routing reports. Much of the information needed to generate these reports already should be collected by broker-dealers in connection with their periodic evaluations of their order routing practices. Broker-dealers must conduct such evaluations to fulfill the duty of best execution that they owe their customers.

The collection of information obligations of Rule 606 applies to broker-dealers that route non-directed customer orders in covered securities. The Commission estimates that out of the currently 5178 broker-dealers that are subject to the collection of information obligations of Rule 606, clearing brokers bear a substantial portion of the burden of complying with the reporting and recordkeeping requirements of Rule 606 on behalf of small to mid-sized introducing firms. There currently are approximately 527 clearing brokers. In addition, there are approximately 2426 introducing brokers that receive funds or securities from their customers. Because at least some of these firms also may have greater involvement in determining where customer orders are routed for execution, they have been included, along with clearing brokers, in estimating the total burden of Rule 606.

The Commission staff estimates that each firm significantly involved in order routing practices incurs an average burden of 40 hours to prepare and disseminate a quarterly report required by Rule 606, or a burden of 160 hours per year. With an estimated 2953<sup>2</sup> broker-dealers significantly involved in order routing practices, the total burden per year to comply with the quarterly reporting requirement in Rule 606 is estimated to be 472,480 hours.

Rule 606 requires broker-dealers to respond to individual customer requests for information on orders handled by

the broker-dealer for that customer. Clearing brokers generally bear the burden of responding to these requests. The Commission staff estimates that an average clearing broker incurs an annual burden of 400 hours (2000 responses x 0.2 hours/response) to prepare, disseminate, and retain responses to customers required by Rule 606. With an estimated 527 clearing brokers subject to Rule 606, the total burden per year to comply with the customer response requirement in Rule 606 is estimated to be 210,800 hours.

The collection of information obligations imposed by Rule 605 and Rule 606 are mandatory. The response will be available to the public and will not be kept confidential. Persons should note that an agency may not conduct or sponsor, and a person is not required to comply with, a collection of information unless it displays a currently valid OMB control number.

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312, or send an e-mail to [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

May 5, 2010.

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

[FR Doc. 2010-11099 Filed 5-10-10; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62031; File No. SR-NYSEArca-2010-39]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Adding 75 Options Classes to the Penny Pilot Program

May 4, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 28,

2010, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") 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 self-regulatory organization. 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 designate 75 options classes to be added to the Penny Pilot Program for Options ("Penny Pilot" or "Pilot") on May 3, 2010. There are no changes to the rule text. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange'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, 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

NYSE Arca proposes to identify the next 75 options classes to be added to the Penny Pilot effective May 3, 2010. The Exchange recently received approval to extend and expand the Pilot through December 31, 2010.<sup>4</sup> In that filing, the Exchange had proposed expanding the Pilot on a quarterly basis to add the next 75 most actively traded multiply listed options classes based on national average daily volume 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 their addition to the Penny Pilot will not be

<sup>2</sup> 527 clearing brokers + 2426 introducing brokers = 2953.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Exchange Act Release No. 60711 (September 23, 2009), 74 FR 49419 (September 28, 2009) (order approving SR-NYSEArca-2009-44).

used for the purpose of the six month analysis.<sup>5</sup>

NYSE Arca proposes adding the following 75 options classes to the Penny Pilot on May 3, 2010, based on national average daily volume from October 1, 2009 through March 31, 2010:

Nat'l Ranking	Symbol	Security name
153	XLV	Health Care Select Sector SPDR Fund.
155	CIEN	Ciena Corp.
157	AMLN	Amylin Pharmaceuticals Inc.
158	CTIC	Cell Therapeutics Inc.
159	MDT	Medtronic Inc.
162	TIVO	TiVo Inc.
163	MNKD	MannKind Corp.
171	MDVN	Medivation Inc.
176	BRKB	Berkshire Hathaway Inc.
178	APOL	Apollo Group Inc.
181	BSX	Boston Scientific Corp.
185	XLY	Consumer Discretionary Sel. Sec. SPDR Fund.
188	CLF	Cliffs Natural Resources Inc.
190	ZION	Zions Bancorporation.
194	IOC	InterOil Corp.
197	ITMN	InterMune Inc.
204	GME	GameStop Corp.
209	XLK	Technology Select Sector SPDR Fund.
210	AKS	AK Steel Holding Corp.
212	GRMN	Garmin Ltd.
213	MRVL	Marvell Technology Group Ltd.
215	XLP	Consumer Staples Select Sector SPDR Fund.
216	UNP	Union Pacific Corp.
220	DTV	DIRECTV.
223	WMB	Williams Cos Inc/The.
225	MEE	Massey Energy Co.
227	CELG	Celgene Corp.
229	GMCR	Green Mountain Coffee Roasters Inc.
231	WDC	Western Digital Corp.
234	DAL	Delta Air Lines Inc.
235	FXE	CurrencyShares Euro Trust.
237	COST	Costco Wholesale Corp.
239	MJN	Mead Johnson Nutrition Co.
240	ALL	Allstate Corp/The.
241	SII	Smith International Inc.
242	RTN	Raytheon Co.
243	DVN	Devon Energy Corp.
244	MT	ArcelorMittal.
247	JCP	JC Penney Co Inc.
248	ACL	Alcon Inc.
249	STP	Suntech Power Holdings Co Ltd.
250	TLB	Talbots Inc.
251	SYMC	Symantec Corp.
253	AMED	Amedisys Inc.
255	TM	Toyota Motor Corp.
257	HK	Petroleum Energy Corp.
258	ENER	Energy Conversion Devices Inc.

Nat'l Ranking	Symbol	Security name
259	STT	State Street Corp.
260	BHP	BHP Billiton Ltd.
261	NFLX	NetFlix Inc.
262	LDK	LDK Solar Co Ltd.
263	SPG	Simon Property Group Inc.
264	TIF	Tiffany & Co.
265	BCUY	Bucyrus International Inc.
266	WAG	Walgreen Co.
268	IP	International Paper Co.
271	XME	SPDR S&P Metals & Mining ETF.
272	KGC	Kinross Gold Corp.
273	EP	El Paso Corp.
274	SEED	Origin Agritech Ltd.
275	WIN	Windstream Corp.
279	DHI	DR Horton Inc.
280	ADBE	Adobe Systems Inc.
281	PCX	Patriot Coal Corp.
282	SPWRA	SunPower Corp.
284	LCC	US Airways Group Inc.
285	PRU	Prudential Financial Inc.
286	LEN	Lennar Corp.
287	EWT	iShares MSCI Taiwan Index Fund.
288	KBH	KB Home.
289	CREE	Cree Inc.
290	SIRI	Sirius XM Radio Inc.
291	MMR	McMoRan Exploration Co.
292	CENX	Century Aluminum Co.
293	GFI	Gold Fields Ltd.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, by identifying the options classes to be added to the Pilot in a manner consistent with prior approvals and filings.

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

The Exchange 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 effective upon filing pursuant to Section 19(b)(3)(A)(i) <sup>6</sup> of the Act and Rule 19b-4(f)(1) <sup>7</sup> thereunder, in that it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange. 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2010-39 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-NYSEArca-2010-39. 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

<sup>5</sup> Index products would be included in the expansion if the underlying index level was under 200.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>7</sup> 17 CFR 240.19b-4(f)(1).

available for Web site viewing and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549-1090 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at NYSE Arca's principal office. 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-NYSEArca-2010-39 and should be submitted on or before June 1, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

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

[FR Doc. 2010-11093 Filed 5-10-10; 8:45 am]

BILLING CODE 8010-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62033; File No. SR-BATS-2010-009]

**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**

May 4, 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 April 30, 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, 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**

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 May 3, 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>

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 May 3, 2010. In the Exchange's filing to adopt rules to govern BATS Options,<sup>5</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 May 3, 2010, based on ADVs for the six months ending March 31, 2010.

Nat'l ranking	Symbol	Security name	Nat'l ranking	Symbol	Security name
153	XLV	Health Care Select Sector SPDR Fund	247	JCP	JC Penney Co Inc.
155	CIEN	Ciena Corp	248	ACL	Alcon Inc.
157	AMLN	Amylin Pharmaceuticals Inc	249	STP	Suntech Power Holdings Co Ltd.
158	CTIC	Cell Therapeutics Inc	250	TLB	Talbots Inc.
159	MDT	Medtronic Inc	251	SYMC	Symantec Corp.
162	TIVO	TiVo Inc	253	AMED	Amedisys Inc.
163	MNKD	MannKind Corp	255	TM	Toyota Motor Corp.
171	MDVN	Medivation Inc	257	HK	Petrohawk Energy Corp.
176	BRKB	Berkshire Hathaway Inc	258	ENER	Energy Conversion Devices Inc.
178	APOL	Apollo Group Inc	259	STT	State Street Corp.
181	BSX	Boston Scientific Corp	260	BHP	BHP Billiton Ltd.
185	XLY	Consumer Discretionary Sel. Sec. SPDR Fund.	261	NFLX	NetFlix Inc.
188	CLF	Cliffs Natural Resources Inc	262	LDK	LDK Solar Co Ltd.
190	ZION	Zions Bancorporation	263	SPG	Simon Property Group Inc.
194	IOC	InterOil Corp	264	TIF	Tiffany & Co.

<sup>8</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> The rules of BATS Options, including rules applicable to BATS Options' participation in the Penny Pilot, were approved on January 26, 2010.

See Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR-BATS-2009-031). BATS Options commenced operations on February 26, 2010. This proposal represents the first expansion of classes subject to the Penny Pilot since BATS Options commenced operations.

<sup>4</sup> See Rule 21.5 regarding the Penny Pilot.

<sup>5</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).