

All submissions should refer to File Number SR–BX–2010–033. 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–BX–2010–033 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>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010–11136 Filed 5–10–10; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–62042; File No. SR–ISE–2010–42]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add 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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 29, 2010, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange 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 ISE proposes to designate 75 options classes to be added to the pilot program to quote and to trade certain options in pennies (the “Penny Pilot”) on May 3, 2010.

**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*

*Purpose*—ISE 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 Penny Pilot through December 31, 2010.<sup>3</sup> In that filing, the Exchange had proposed expanding the Penny 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 used for the purpose of the six month analysis.<sup>4</sup>

ISE proposes to add the following 75 options classes to the Penny Pilot on May 3, 2010, based on national average daily volume 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.
197 .....	ITMN	InterMune Inc.	265 .....	BUCY	Bucyrus International Inc.

<sup>11</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 Securities Exchange Act Release No. 60865 (October 22, 2009), 74 FR 55880 (October 29, 2009)

(SR–ISE–2009–82). 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.

<sup>4</sup> Index products would be included in the expansion if the underlying index level was under 200.

Nat'l ranking	Symbol	Security name	Nat'l ranking	Symbol	Security name
204 .....	GME	GameStop Corp.	266 .....	WAG	Walgreen Co.
209 .....	XLK	Technology Select Sector SPDR Fund.	268 .....	IP	International Paper Co.
210 .....	AKS	AK Steel Holding Corp.	271 .....	XME	SPDR S&P Metals & Mining ETF.
212 .....	GRMN	Garmin Ltd.	272 .....	KGC	Kinross Gold Corp.
213 .....	MRVL	Marvell Technology Group Ltd.	273 .....	EP	El Paso Corp.
215 .....	XLP	Consumer Staples Select Sector SPDR Fund.	274 .....	SEED	Origin Agritech Ltd.
216 .....	UNP	Union Pacific Corp.	275 .....	WIN	Windstream Corp.
220 .....	DTV	DIRECTV.	279 .....	DHI	DR Horton Inc.
223 .....	WMB	Williams Cos Inc/The.	280 .....	ADBE	Adobe Systems Inc.
225 .....	MEE	Massey Energy Co.	281 .....	PCX	Patriot Coal Corp.
227 .....	CELG	Celgene Corp.	282 .....	SPWRA	SunPower Corp.
229 .....	GMCR	Green Mountain Coffee Roasters Inc.	284 .....	LCC	US Airways Group Inc.
231 .....	WDC	Western Digital Corp.	285 .....	PRU	Prudential Financial Inc.
234 .....	DAL	Delta Air Lines Inc.	286 .....	LEN	Lennar Corp.
235 .....	FXE	CurrencyShares Euro Trust.	287 .....	EWT	iShares MSCI Taiwan Index Fund.
237 .....	COST	Costco Wholesale Corp.	288 .....	KBH	KB Home.
239 .....	MJN	Mead Johnson Nutrition Co.	289 .....	CREE	Cree Inc.
240 .....	ALL	Allstate Corp/The.	290 .....	SIRI	Sirius XM Radio Inc.
241 .....	SII	Smith International Inc.	291 .....	MMR	McMoRan Exploration Co.
242 .....	RTN	Raytheon Co.	292 .....	CENX	Century Aluminum Co.
243 .....	DVN	Devon Energy Corp.	293 .....	GFI	Gold Fields Ltd.
244 .....	MT	ArcelorMittal.			

(b) *Basis*—The basis under the Securities Exchange Act of 1934 (the “Exchange Act”) for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change 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. In particular, the proposed rule change identifies 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*

The proposed rule change does not 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*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

### **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>5</sup> of the Exchange Act and

Rule 19b-4(f)(1)<sup>6</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 No. SR-ISE-2010-42 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-ISE-2010-42. 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 copying in the Commission’s Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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-ISE-2010-42 and should be submitted by June 1, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>6</sup> 17 CFR 240.19b-4(f)(1).

<sup>7</sup> 17 CFR 200.30-3(a)(12).