



LiquidPoint

311 S.Wacker Drive, Suite 4700
Chicago, IL 60606

June 17, 2009

Elizabeth Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

**Re: Comments Regarding the Options Penny Pilot Program
Release No. 34-59944 (SR-NYSE Arca-2009-44)**

Dear Ms. Murphy:

I. Introduction

LiquidPoint LLC (“LiquidPoint”)¹ appreciates the opportunity to comment on the above captioned proposal expanding NYSE Arca’s Pilot Program to quote and trade certain options in pennies (the “Arca Penny Pilot”) to December 31, 2010 (“Phase III”). The Arca Penny Pilot proposes to expand penny quoting and trading to the listed options of 300 additional underlying securities (classes) in quarterly stages with final implementation on April 26, 2010. These additional classes will be quoted and traded in pennies for all series with a premium of \$3 or less. Additionally, for options on the S&P 500 ETF (SPY) and the Russell 2000 ETF (IWM), all series will be quoted and traded in pennies regardless of the premium level.

LiquidPoint supports the benefits of amending and expanding the Penny Pilot program. In its current form, however, the Arca Penny Pilot is not prudent because it will hinder rather than advance the interests of market participants, exchanges, and market data vendors in the

¹¹ LiquidPoint, a wholly owned subsidiary of BNY ConvergEx Group, LLC, specializes in derivatives execution management technology and brokerage services for U.S. listed options. As a member of U.S. listed options exchanges, LiquidPoint provides electronic direct market access to every U.S. exchange, as well as advanced trading capabilities that include order execution, order management, order routing and optimization, quality assurance review and reporting.

options market. LiquidPoint has three concerns regarding the Arca Penny Pilot as described in this letter. LiquidPoint believes that these concerns can be addressed by:

- Adoption of a uniform model for the Penny Pilot program by all exchanges (*See Section II below*);
- Adoption of a single break point level for all listed options (*See Section III below*);
- Adoption of a \$1 break point to mitigate diminished liquidity and increased data bandwidth (*See Section IV below*).

Accordingly, LiquidPoint recommends that the Securities and Exchange Commission (the “Commission”) reject the Arca Penny Pilot and instead adopt one uniform proposal to more adequately reflect market realities and ensure a fair and orderly market for the trading of standardized options. Specifically, LiquidPoint supports the adoption of the Chicago Board Options Exchange, Incorporated (“CBOE”) proposal to amend the CBOE rules relating to the Penny Pilot (the “CBOE Penny Pilot”)² as endorsed by the Equity Options Trading Committee of the Securities Industry and Financial Markets Association (“SIFMA”).

II. Adoption of a Uniform Model for the Penny Pilot Programs of All Exchanges will Avoid Investor and Marketplace Confusion

LiquidPoint concurs with the SEC’s pronouncements in 2006 which promoted a joint and standardized approach to implementing a uniform Penny Pilot program.³ The CBOE, NASDAQ and SIFMA have all embraced this position contending that the implementation of separate Penny Pilot programs for the different exchanges does not make sense and is not consistent with current market trends. Currently, however, there are multiple and contrasting Penny Pilot programs under review by the Commission. Multiple Penny Pilots will only lead to confusion amongst investors where the goal of the Commission should be to promote a fair and orderly market for the trading of standardized options. Considering the adoption of multiple Penny Pilots will also contradict the premise of the National Market System and lead to technological difficulties which would be avoided under a single and uniform Penny Pilot.

Specifically, technological and implementation issues would arise for all market participants under multiple Penny Pilots, including investors, exchanges, firms, market data vendors, market makers, technology software and service providers. As the NASDAQ has

² See Release No. 34-60018 (SR-CBOE-2009-031).

³ See CBOE 6/12/09 comment letter regarding SR-NYSEArca-2009-44.

pointed out in its comment letter concerning the Arca Penny Pilot, varied break points will impact order entry, routing, quoting and compliance systems for each venue, and the integration of daily batch files from each exchange.⁴ In light of the demonstrated need for a uniform Penny Pilot program, LiquidPoint supports adoption of the balanced and flexible CBOE Penny Pilot by all exchanges.

III. A Single Break Point Premium Level for All Listed Options Will Provide Flexibility and Consistency in the Marketplace

Similar to the adoption of a uniform Penny Pilot program, LiquidPoint submits that the options industry and investing public will be better served by the consistency of a single premium level (break point) of \$1 for all listed options as proposed in the CBOE Penny Pilot. The Arca Penny Pilot defaults to the \$3 break point and adds to the exceptions within the current Penny Pilot. It also applies this standard to a subset of 300 option classes with a semi-annual delisting / relisting process. These aspects of the Arca Penny Pilot will create significant confusion and uncertainty throughout the options industry. A single premium level, however, will provide flexibility and consistency in determining the optimal break point for all listed options while also introducing a standard methodology to determine the eligible option classes.

The CBOE Penny Pilot proposes to lower the break point to \$1. LiquidPoint supports this proposal because it provides the flexibility to adjust the break point higher if it is determined that the benefits of narrower quote spreads outweigh the negative impact to liquidity at the BBO.⁵ Further supporting the CBOE Penny Pilot's reduction of the break point to \$1 is the fact that price improvement mechanisms already exist at three of the seven exchanges. These price improvement mechanisms facilitate pricing in pennies when the market place deems it necessary. An additional benefit of the CBOE Penny Pilot is that it will provide consistency by removing exceptions to the quoting convention. Removing such exceptions will allow modification of the break point to be more easily implemented and communicated to all participants.⁶ Finally, an initial lower break point will mitigate the increase in quote traffic and execution messaging of the Arca Penny Pilot which will provide all participants with greater flexibility to increase capacity.

As discussed above, there is no doubt that a reasonable and lower break point of \$1 as proposed in the CBOE Penny Pilot will significantly benefit all option classes. The \$3 break point of the Arca Penny Pilot, on the other hand, is arbitrary, confusing and impractical. For

⁴ See NASDAQ 6/12/09 comment letter regarding SR-NYSEArca-2009-44.

⁵ See Release No. 34-60018 (SR-CBOE-2009-031).

⁶ See Release No. 34-60018 (SR-CBOE-2009-031).

these reasons, LiquidPoint urges the Commission to consider a common and consistent initial break point for all listed options of \$1 as set forth in the CBOE Penny Pilot.

IV. A Break Point Premium Level of \$1 Will Mitigate Diminished Liquidity and Increased Demands on Data Bandwidth

While the Arca Penny Pilot may result in reduced quote spreads, data from the current Penny Pilot shows it will also result in diminished liquidity which will have a negative impact in the marketplace. By using a \$1 premium break point, the effect of diminished liquidity caused by penny quoting is mitigated by the fact that liquidity in the marketplace provided by investor interest is concentrated in these lower premium options. Additionally, the possibly incrementally better price due to the reduced quote spread is most significant for options trading at lower premiums. In other words, the lower the premium, the more significant the incrementally better price will be.

For example, a penny better price (a one dollar nominal amount) on an option with a premium of \$1 (a 100 dollar nominal amount) or less would produce a price better by 1% *or greater*. The same penny better price on an option with a \$10 premium (a \$1000 nominal amount) or greater would result in a price better by only one tenth of 1% *or less*. The liquidity in the marketplace provided by investor interest is concentrated in the lower premium options such that the effect of diminished liquidity is mitigated; resulting in a reasonable trade-off between *incrementally significant* better prices and reduced liquidity. Conversely, higher premium options, with less investor interest have a more significant need for liquidity at the BBO, yet the possibility of incrementally better prices is less significant; an unreasonable trade-off between a possibly better price and reduced liquidity.

Reduced liquidity also increases the number of execution reports and price levels thus placing additional burdens on those serving the investor. LiquidPoint's data indicates that for a given order size, on average, there are 43% more fill reports generated in penny markets than non-penny markets which impacts order entry, routing, quoting and compliance systems for all participants. Finally, higher priced options demand higher quotation rates, which will also adversely affect system capacities and the associated costs. Accordingly, the Commission should reject the Arca Penny Pilot and adopt the CBOE Penny Pilot at a single premium level for all listed options to avoid investor confusion, reasonably mitigate the reduction in liquidity at the BBO and the costs associated with increased fill reports and higher quoting rates.

V. Conclusion

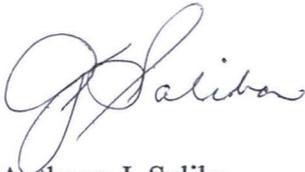
In conclusion, LiquidPoint believes that any perceived benefits of the Arca Penny Pilot are significantly outweighed by the negative impact it would have on the market place. In contrast, the CBOE Penny Pilot offers the adoption of a Penny Pilot program which takes into consideration market realities and offers a balanced and efficient response to penny increments

in the options markets by: (i) providing a uniform, comprehensive and efficient model for the Penny Pilot programs of all exchanges; (ii) offering a consistent, flexible and single break point for all listed options; and (iii) reasonably mitigating diminished liquidity and reducing the burden of an increased number of execution reports, prices and quotations. LiquidPoint is confident that such an approach will lead to consistency and efficiency in the Penny Pilot program generally, and accordingly recommends that the Commission consider these comments in its review of the Arca Penny Pilot.

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LiquidPoint appreciates the opportunity to provide comment regarding the Arca Penny Pilot. Please do not hesitate to contact me at (312) 986-5033 if you have any questions or concerns regarding any of the comments provided in this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Saliba".

Anthony J. Saliba
Chief Executive Officer

cc: Elizabeth King, Associate Director, Division of Trading and Markets