

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 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-Phlx-2010-10 and should be submitted on or before March 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

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

[FR Doc. 2010-2866 Filed 2-9-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61479; File No. SR-NYSEAmex-2010-08]

### Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 960NY Trading Differentials

February 3, 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 January 29, 2010, NYSE Amex LLC ("NYSE Amex" or the "Exchange") 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 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 amend its option trading rules to designate SPY (SPDR S&P 500 ETF Trust) and IWM (iShares Russell 2000 Index Fund) as eligible to quote and trade all options contracts in one cent increments effective February 1, 2010. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office, at the Commission's Public Reference Room, and on the Commission's Web site at <http://www.sec.gov>.

#### 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to designate two Penny Pilot Program<sup>3</sup> issues as eligible to quote and trade all options contracts in one cent increments, regardless of premium value. Specifically, the Exchange proposes to so designate SPY (SPDR S&P 500 ETF Trust) and IWM (iShares Russell 2000 Index Fund). In selecting these issues, the Exchange considered, among other things, that these symbols are (a) among the most actively traded issues nationally, with a wide array of investor interest, (b) have more series trading at a premium between \$3 and \$10, and (c) are trading at prices that are neither

extremely low nor high, but are generally trading between \$15–\$50.

Furthermore, the Exchange proposes to designate SPY and IWM as eligible to quote and trade all options contracts in one cent increments as of February 1, 2010. This date corresponds with the second phase-in date for additional classes in the pilot. The Exchange believes that issues that meet these criteria benefit the most from the ability to quote and trade all options in penny increments.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>4</sup> of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)<sup>5</sup> in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, by allowing all SPY and IWM option series to quote in penny intervals.

##### 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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not

<sup>16</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 Penny Pilot was extended and expanded on November 2, 2009, adding 75 classes to the Pilot on that date. See Exchange Act Release No. 61106 (December 3, 2009) 74 FR-65193 (December 9, 2009).

<sup>4</sup> 15 U.S.C. 78f(b).

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

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

become operative for 30 days after the date of filing.<sup>7</sup> However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),<sup>8</sup> which would make the rule change effective and operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal is based on a recent Commission-approved proposal submitted by another options exchange<sup>9</sup> and therefore does not raise any novel regulatory issues. Further, waiving the operative delay will allow the Exchange to commence quoting all series of IWM and SPY in increments of \$0.01 effective February 1, 2010, contemporaneously with other options exchanges. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.<sup>10</sup>

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

<sup>7</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE Amex has satisfied this requirement.

<sup>8</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>9</sup> See Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (granting partial approval of NYSEArca-2009-44).

<sup>10</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAmex-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-NYSEAmex-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 the filing also will be available for inspection and copying at the NYSE's principal office and on its Web site at <http://www.nyse.com>. 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-NYSEAmex-2010-08 and should be submitted on or before March 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61483; File Nos. SR-CBOE-2010-007; SR-ISE-2009-106; SR-NYSEAmex-2009-86; and SR-NYSEArca-2009-110]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated, International Securities Exchange, LLC, NYSE Amex LLC, and NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Listing and Trading Options on the ETFS Gold Trust and the ETFS Silver Trust

February 3, 2010.

Three options exchanges filed with the Securities and Exchange Commission ("Commission") proposed rule changes pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder to list and trade options on shares of the ETFS Gold Trust and the ETFS Silver Trust (collectively "ETFS Options"). Specifically, NYSE Amex LLC ("NYSE Amex") and NYSE Arca, Inc. ("NYSE Arca") both submitted their proposals on December 4, 2009 and the International Securities Exchange, LLC ("ISE") submitted its proposal on December 10, 2009. Each proposed rule change was published for comment in the **Federal Register** on December 30, 2009 for a 21-day comment period.<sup>3</sup> No comments were received on the proposed rule changes. This order approves the proposed rule changes.

In addition, on January 27, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Commission the proposed rule change as described in Items I and II below, which items have been prepared by the CBOE. The proposal submitted by the CBOE is substantively identical to the proposals of NYSE Amex, NYSE Arca, and ISE. Pursuant to Section 19(b)(1) of the Act<sup>4</sup> and Rule 19b-4<sup>5</sup> thereunder, the Commission is publishing this notice to solicit comments on the CBOE proposed rule change from interested persons and

<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 Nos. 61223 (December 22, 2009), 74 FR 69161; 61222 (December 22, 2009), 74 FR 69182; and 61228 (December 22, 2009), 74 FR 69180.

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

<sup>11</sup> 17 CFR 200.30-3(a)(12).