among the most actively traded classes 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. The Exchange believes that classes that meet these criteria benefit the most from the ability to quote and trade all options series in penny increments.

This proposal is based on a recent Commission-approved proposal of the NYSEArca exchange.[6] 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 Penny Pilot Program.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Exchange believes that allowing market participants to quote in smaller increments reduces spreads, thereby lowering costs to investors.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act[9] and Rule 19b–4(f)(6) thereunder[10] and does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition and; (iii) become operative for 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 Commission recently granted approval for a similar filing proposed by the NYSEArca.[11] The Exchange believes that this proposed rule change, which is essential for competitive purposes and to promote a free and open market for the benefit of investors, does not raise any new, unique or substantive issues from those raised in the approved NYSEArca proposal.

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.* Please include File Number SR–BX–2009–086 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–BX–2009–086. 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 inspection and copying 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–2009–086 and should be submitted on or before January 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–71 Filed 1–7–10; 8:45 am]

BILLING CODE 8011–01–P

[6] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, as required by Rule 19b–4(f)(6)(iii), the Exchange has submitted to the Commission written 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.

[11] *See supra* note 6.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61271; File No. SR–BX–2009–085]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period To Receive Inbound Routes of Orders From Nasdaq Execution Services

December 31, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 23, 2009, NASDAQ OMX BX, Inc. (the "Exchange" or "BX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change as described in Items I and II, below, which Items have been prepared by BX. BX has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. 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

BX submits this proposed rule change to extend the pilot period of BX's prior approval to receive inbound routes of equities orders from Nasdaq Execution Services, LLC ("NES") through March 23, 2010.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BX 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. BX 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

Currently, NES is the approved outbound routing facility of the NASDAQ Stock Market LLC ("NASDAQ") for cash equities, providing outbound routing from NASDAQ to other market centers.[4] BX also has been previously approved to receive inbound routes of equities orders by NES in its capacity as an order routing facility of NASDAQ.[5] The Exchange's authority to receive inbound routes of equities orders by NES is subject to a pilot period ending December 23, 2009. The Exchange hereby seeks to extend the previously approved pilot period (with the attendant obligations and conditions) for an additional 3 months, through March 23, 2010.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(5) of the Act,[7] in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the proposed rule change will allow the Exchange to continue receiving inbound routes of equities orders from NES acting in its capacity as a facility of Nasdaq, in a manner consistent with prior approvals and established protections. The Exchange believes that extending the previously approved pilot period for three months is of sufficient length to permit both the Exchange and the Commission to assess the impact of the Exchange's authority to receive direct inbound routes of equities orders via NES (including the attendant obligations and conditions).

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

BX does not believe that the proposed rule change will impose any burden on competition 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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[10] However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. BX has requested that the Commission waive the 30-day operative delay. BX notes that the proposal will allow the Exchange to continue receiving inbound routes of equities orders from NES, in a manner consistent with prior approvals and established protections, while also permitting the Exchange and the Commission to assess the impact of the pilot.[12] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot period to be extended without interruption through March 23, 2010. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.[13]

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release Nos. 50311 (September 3, 2004), 69 FR 54818 (September 10, 2004) (Order Granting Application for a Temporary Conditional Exemption Pursuant To Section 36(a) of the Exchange Act by the National Association of Securities Dealers, Inc. Relating to the Acquisition of an ECN by The Nasdaq Stock Market, Inc.) and 52902 (December 7, 2005), 70 FR 73810 (December 13, 2005) (SRNASD–2005–128) (Order Approving a Proposed Rule Change To Establish Rules Governing the Operation of the INET System). *See also* Securities Exchange Act Release Nos. 58752 (October 8, 2008), 73 FR 61181 (October 15, 2008) (SR–NASDAQ–2008–079); 58135 (July 10, 2008), 73 FR 40898 (July 16, 2008) (SR–NASDAQ–2008–061); 58069 (June 30, 2008), 73 FR 39360 (July 9, 2008) (SR–NASDAQ–2008–054); 56708 (October 26, 2007), 72 FR 61925 (November 1, 2007) (SR–NASDAQ–2007–078); 56867 (November 29, 2007), 72 FR 69263 (December 7, 2007) (SR–NASDAQ–2007–065); 55335 (February 23, 2007), 72 FR 9369 (March 1, 2007) (SR–NASDAQ–2007–005); 54613 (October 17, 2006), 71 FR 62325 (October 24, 2006) (SR–NASDAQ 2006–043); 54271 (August 3, 2006), 71 FR 45876 (August 10, 2006) (SR–NASDAQ–2006–027); and 54155 (July 14, 2006), 71 FR 41291 (July 20, 2006) (SR–NASDAQ–2006–001).

[5] *See* Securities Exchange Act Release No. 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written 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. The Exchange has satisfied this requirement.

[11] *Id.*

[12] *See supra* at II.A.2.

[13] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BX–2009–085 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–BX–2009–085. 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 inspection and copying in the Commission's Public Reference Room 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 Number SR–BX–2009–085 and should be submitted on or before January 29, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–78 Filed 1–7–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61268; File No. SR–NYSE–2009–128]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period To Receive Inbound Routes of Certain Equities Orders From Archipelago Securities LLC

December 31, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 22, 2009, New York Stock Exchange LLC ("NYSE" 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 extend the pilot period of the Exchange's prior approvals to receive inbound routes of certain equities orders from Archipelago Securities LLC ("Arca Securities"), an NYSE affiliated member. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Arca Securities is the approved outbound order routing facility of the Exchange.[3] Arca Securities is also the approved outbound order routing facility of NYSE Arca and NYSE Amex LLC ("NYSE Amex").[4] The Exchange has also been previously approved to receive inbound routes of equities orders by Arca Securities in its capacity as an order routing facility of NYSE Arca and NYSE Amex.[5] The Exchange's authority to receive inbound routes of equities orders by Arca Securities is subject to a pilot period ending December 31, 2009.[6] The Exchange hereby seeks to extend the previously approved pilot period (with the attendant obligations and conditions) for an additional 3 months, through March 31, 2010.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[7] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55590 (April 5, 2007), 72 FR 18707 (April 13, 2007) (notice of immediate effectiveness of SR–NYSE–2007–29); *see also,* Securities and [sic] Exchange Act Release No. 58680 (September 29, 2008), 73 FR 58283 (October 6, 2008) (order approving SR–NYSE–2008–76).

[4] *See* Securities Exchange Act Release No. 53238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (order approving SR–NYSEArca–2006–13); *see also,* Securities Exchange Act Release No. 52497 (September 22, 2005), 70 FR 56949 (September 29, 2005) (SR–PCX–2005–90); *see also,* Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25); *see also,* Securities Exchange Act Release No. 58681 (September 29, 2008), 73 FR 58285 (October 6, 2008) (order approving NYSEArca–2008–90). *See* Securities Exchange Act Release No. 59009 (November 24, 2008), 73 FR 73363 (December 2, 2008) (order approving SR–NYSEALTR–2008–07); *see also,* Securities and [sic] Exchange Act Release No. 59473 (February 27, 2009), 74 FR 9853 (March 6, 2009) (order approving SR–NYSEALTR–2009–18).

[5] *See* Securities and [sic] Exchange Act Release No. 58680 (September 29, 2008), 73 FR 58283 (October 6, 2008) (order approving SR–NYSE–2008–76); *see* Securities Exchange Act Release No. 59011 (November 24, 2008) 73 FR 73360 (December 2, 2008) (order approving SR–NYSE–2008–122); *see also* Securities and [sic] Exchange Act Release No. 60255 (July 7, 2009) 74 FR 34065 (July 14, 2009) (order approving SR–NYSE–2009–58).

[6] *See* Securities Exchange Act Release No. 60752 (September 30, 2009), 74 FR 51641 (October 7, 2009) (notice of immediate effectiveness of SR–NYSE–2009–101).

[7] 15 U.S.C. 78f(b).