

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The proposed rule change will modify NSCC's procedures regarding its trade comparison service. The proposed rule change will discontinue the following instructions: the "delete of original trade input,"<sup>3</sup> the "demand withhold,"<sup>4</sup> and the "demand as of."<sup>5</sup> Such instructions are used very infrequently by NSCC members due to the growth of automated processing systems. Their elimination will result in reduced costs to members.

Additionally, the change will eliminate the ability to submit an advisory listing after the first day after trade date ("T+1") for original input and as of trades.<sup>6</sup> This change results from extremely limited acceptances of advisories of T+2 and will also reduce costs.

Under the third change, the supplemental contract lists and the added trade contract lists will no longer carry forward totals. The supplemental contract lists show all compared trades resulting from adjustments submitted on T+1. The added trade contract lists show trades that are compared on T+2 and thereafter. NSCC has been advised that due to the increasingly automated processing environment, totalled information is no longer necessary. This will reduce computer processing time and therefore will also diminish production costs. These modifications are scheduled to take place in April of 1998.

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder since it will facilitate the prompt and accurate clearance and settlement of securities transactions and, in general, will protect investors and the public interest.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

<sup>3</sup> NSCC members use the delete of original trade input to delete any item for which the comparison process resulted in an uncompleted trade.

<sup>4</sup> The demand withhold service deletes previously compared OTC transactions which have been canceled by mutual agreement of the buyer and the seller.

<sup>5</sup> OTC trade data submitted by members which is uncompleted may be resubmitted through the demand as of service.

<sup>6</sup> Advisory listings indicate trades which were submitted by another party against the member but which did not match any trade the member submitted.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period:

(i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which NSCC consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR-NSCC-97-14 and should be submitted by February 28, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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**BILLING CODE 8010-01-M**

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

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-39564; File No. SR-NYSE-97-30]

**Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change To Amend and To Make Permanent the Allocation Policy and Procedures Pilot Program**

January 20, 1998.

**I. Introduction**

On October 20, 1997, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend and to obtain permanent approval of the Exchange's Allocation Policy and Procedures pilot program.

The proposed rule change was published for comment in the **Federal Register** on November 7, 1997.<sup>3</sup> No comments were received on the proposal. On January 2, 1998, the NYSE submitted Amendment No. 1 to the proposed rule change.<sup>4</sup> This order approves the proposed rule change and approves Amendment No. 1 on an accelerated basis.

**II. Background and Description of the Proposal**

The Exchange's Allocation Policy and Procedures ("Policy") are intended: (1) to ensure that securities are allocated in an equitable and fair manner and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by

<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. 39288 (October 30, 1997) 62 FR 60297.

<sup>4</sup> See Letter from Agnes M. Gautier, Vice President, Market Surveillance, NYSE to Sharon Lawson, Senior Special Counsel, Division of Market Regulation ("Division"), Commission, dated December 26, 1997 ("Amendment No. 1"). In Amendment No. 1, the NYSE clarified the proposal with respect to: (1) Exchange representation at interviews between specialist units and listing companies; (2) Exchange review of written materials supplied by specialist units to listing companies; and (3) specialist unit contact with a listing company. In addition, Amendment No. 1 deletes the sentence inviting listing companies to express in a letter sent to the Exchange's Allocation Committee any preference not to be traded by specialist units which trade the stock of the listing companies' competitors.

specialist units; (3) to provide the best possible match between specialist unit and security; and (4) to contribute to the strength of the specialist system. On February 28, 1997, the Exchange proposed to change the Policy to allow greater listing company input. On March 7, 1997, the Commission approved the proposal as a seven-month pilot program, effective until October 7, 1997.<sup>5</sup> Subsequently, the Commission has approved two extensions of the Exchange's pilot program; the current extension expires January 16, 1998.<sup>6</sup>

Under the pilot program, listing companies may: (1) Have the Allocation Committee select their specialist unit ("Option 1"); or (2) make the final selection of a specialist unit from among a group of three of five specialist units selected by the Allocation Committee ("Option 2"). In either case, the listing company may submit a generic letter to the Allocation Committee which may describe desired general characteristics of a specialist unit, but may not mention particular specialist units. Under Option 2, the listing company meets, either in person or by teleconference, with the specialist units selected by the Allocation Committee within two business days after their selection. The listing company must make its decision as to a specialist unit by the next business day.

The Exchange is proposing several changes to the Policy in addition to requesting permanent approval of the pilot permitting Option 2. First, when the listing company selects Option 2, currently the Allocation Committee will select a group of three, four or five units that are the most qualified specialist units among the units that apply. It is proposed that if three units are selected, the Allocation Committee may select an alternate specialist unit to be among the group of units that a company may interview in the event a unit is eliminated. A specialist unit could be eliminated if it cannot meet with the listing company at the appointed time. A unit chosen as an alternate will be informed of its status as such. Currently, the policy is silent regarding this procedure.

Second, the Exchange is proposing several changes covering contacts between specialist units and listing companies. The NYSE is proposing to codify in its Policy its prohibition on contact between listing companies and specialist units from the time allocation applications are solicited until Allocation Committee meetings. The current Policy is silent regarding contact between listing companies and specialist units. However, the NYSE's Information Memo No. 97-13 states that once allocation applications are distributed, the Exchange expects that specialist units will have no contact with the listing companies. The proposed change would codify this existing restriction into the Policy itself.<sup>7</sup>

The proposal also would allow specialist units to provide written material to Exchange staff from the time of selection of an interviewing pool to no later than two hours before the scheduled interview. Exchange staff would provide the written material to the listing company on the day of the interview. The proposal further would require written material to be limited to information pertaining to the specialist unit, and would not permit any reference to another specialist unit or units, except overall floorwide statistics. In addition, the amended proposal would require periodic, random reviews of such material by Exchange staff after the allocation process has been completed. The NYSE represents that it will take appropriate regulatory action should problems with the written materials provided to listing companies be disclosed.<sup>8</sup>

Under the terms of the proposal, a specialist unit may not supply information at the interview<sup>9</sup> concerning another specialist unit or units either orally or in writing, except it may refer to overall floorwide statistics. The proposal would permit any information contained in Exchange documents to be provided by the unit

orally or in writing on the unit's letterhead. Following its interview, the proposal would prohibit a specialist unit from having any contact with listing company and any follow-up questions by the company regarding publicly available information on a unit would be required to be sent to the Exchange. If the Exchange approves, a response would be provided. The proposal provides that the specialist units in the group of units interviewed would be advised of such requests.

Third, under the Policy, the listing company's letters to the Allocation Committee can describe characteristics that focus on the specialist unit rather than the listing company. According to the NYSE, letters which describe the listing company are more helpful to the Allocation Committee in assessing the type of specialist unit that would be appropriate for the company. Therefore, the Exchange proposes to change the Policy to require that any letter submitted by the listing company to the Allocation Committee focus on the history and background of the company and its industry; how the company historically has funded its operations; characteristics of its shareholder base and any unusual trading patterns that may result therefrom; and any public information regarding the company's plans for the future. The letter may also include the company's specific views on being traded by a specialist unit with experience in trading in its industry or country.<sup>10</sup>

Fourth, under the current policies within two business days after the selection of a group of specialist units by the Allocation Committee, the listing company must meet with the specialist unit's representative. In addition, the listing company must select its specialist unit within one business day of the interview. The Exchange believes that these time frames have been, at times, too compressed for company travel arrangements or preparation by the specialist units. Accordingly, the NYSE is proposing to amend this portion of the policy to permit the listed company to meet with the selected group of specialist units' representatives up until the close of business on the last Exchange business day of the week in which the selection of the group was

<sup>5</sup> See Securities Exchange Act Release No. 38372, 62 FR 13421 (March 21, 1997) (notice of filing and immediate effectiveness of File No. SR-NYSE-97-04). On April 16, 1997, the Exchange filed another proposed change to its Policy not covered under the pilot program. See Securities Exchange Act Release No. 38828 (July 9, 1997) 62 FR 39043 (July 21, 1997) (order approving File No. SR-NYSE-97-12).

<sup>6</sup> See Securities Exchange Act Release Nos. 39206 (October 6, 1997) 62 FR 53679 (October 15, 1997) (notice of filing and order granting accelerated approval of File No. SR-NYSE-97-27); and 39368 (November 26, 1997) 62 FR 64613 (December 8, 1997) (notice of filing and immediate effectiveness of File No. SR-NYSE-97-32).

<sup>7</sup> The current Policy does require specialist units to describe in their allocation applications any contacts with the listing company with regard to its prospective listing on the Exchange within six months prior to the date that allocation applications are solicited. According to the NYSE, such contacts are among the factors considered by the Allocation Committee in allocating a stock to a specialist unit or selecting a unit to be interviewed by the listing company. See Amendment No. 1, *supra* note 4.

<sup>8</sup> See Amendment No. 1, *supra* note 4.

<sup>9</sup> According to the NYSE, staff of its Listing Department will continue to attend interviews between listing companies and specialist units. In addition, Exchange Regulatory staff will randomly attend interviews for two listings each month and conduct meetings with members of the Exchange's Listings staff to educate them on regulatory issues. See Amendment No. 1, *supra* note 4.

<sup>10</sup> The NYSE also proposed to amend the Policy to invite a listing company to include in its letter any preference that its stock not be traded by specialist units which trade competitors' stock. In Amendment No. 1, the NYSE deleted all reference to any preferences the listing company may have with respect to the units trading competitors' stock. Listing companies will not, however, be prohibited from stating such a preference in letters sent to the Allocation Committee. See Amendment No. 1, *supra* note 4.

made by the Allocation Committee. Further, the amended proposal provides that as soon as practicable, following its meeting with representatives of the specialist units, the listing company would be required to select its specialist unit. If a listing company meets with any of its specialist units on the last Exchange business day of the week, it would be required to make its decision on that day.

Fifth, the Policy currently permits telephone interviews at the request of a listing company. According to the NYSE, in-person interviews have been shown to be more effective. Therefore, under the proposal, telephone interviews would not be permitted for domestic listing companies, unless approved by the Exchange for compelling circumstances. Telephone interviews would continue to be permitted for non-U.S. listing companies.

Finally, the NYSE is proposing to change the Policy concerning spin-offs and related companies. Under the proposed revisions to the Policy, a listing company that is a spin-off or related company may choose to stay with the specialist unit registered in the related listed company. Currently, situations in which a listing company is a spin-off of or related to a listed company are handled as new listings, with allocation open to all specialist units. Under the terms of the proposal, if a listing company that is a spin-off or related company chooses to have the Allocation Committee select its specialist, the listing company may request, and the Allocation Committee will honor, that it not be traded by the unit that trades the related listed company. Alternatively, the proposal would permit the listing company to choose Option 2 and request that the Allocation Committee include or exclude the specialist unit registered in the related listed stock from the pool of specialist units.<sup>11</sup>

### III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Act<sup>12</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>13</sup> The Commission believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5)

of the Act<sup>14</sup> in that it is designed to perfect the mechanism of a free and open market and to protect investors and the public interest.

From the outset, the Commission has had two primary concerns relating to the Exchange's pilot program: (1) whether the resulting allocations would be based on objective factors, such as specialist performance, or influenced by such factors as promotional efforts of specialist units; and (2) whether this new procedure would create the appearance of impropriety between the specialist and the listing company and thereby undermine public confidence in the integrity of the marketplace. The Commission approved the new procedures as a pilot program to give the NYSE time to gain experience with the new procedures and to allow both the Exchange and the Commission additional time to evaluate the merits of the program.

After assessing the results of the NYSE's pilot program, the Commission has determined to approve on a permanent basis the proposed changes to the Policy. The Commission notes that there is no evidence of any problems with the pilot program during its ten months of operation and the Commission believes that the Exchange is applying the established criteria appropriately. In addition, the Commission believes that the proposed amendments implement and enforce safeguards which should ensure that inappropriate or prohibited relationships between specialist units and listing companies do not develop.

Specifically, the Commission believes that it is appropriate to continue to permit listing companies to have the choice to have greater input in the selection of the specialist unit that will trade the companies' stock. The Commission notes that listing companies retain the right to request the Allocation Committee to select a specialist unit on their behalf based on the criteria specified in the Policy.<sup>15</sup>

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> Under the Policy, the Allocation Committee is required to base allocation decisions on: (1) the results of the Specialist Performance Evaluation Questionnaire ("SPEQ"); (2) objective performance measures; and (3) the Allocation Committee's expert professional judgment in considering the SPEQ, objective measures of performance, and other enumerated criteria, such as professional judgment, listing company input, allocations received, capital deficiency, disciplinary actions, justifiable complaints and foreign listing considerations. The SPEQ includes several facets, including ratings in the current quarter, improved ratings, and ratings over time. Objective measures of performance considered by the Allocation Committee include dealer participation rates, stabilization, capital utilization, and near neighbor analysis, as well as timeliness of regular openings, promptness in

The Commission further notes that under Option 2, where a listing company has the opportunity to select its own specialist unit, it must do so from a group of three to five units that are selected by the Allocation Committee as the most qualified specialist units among the units that apply based on the criteria in the Policy.<sup>16</sup> Because under either Option, the allocation criteria, which focuses primarily on specialist performance, must be applied by the Allocation Committee, the Commission believes that the allocation process will continue to ensure that the best qualified and performing units will be rewarded with allocations.

Second, the NYSE's proposal contains several safeguards to ensure the continued integrity of the allocation process and that contacts between specialists and listing companies are appropriately monitored when Option 2 is used. In this regard, the NYSE's proposal codifies in its Policy its prohibition on contact between listing companies and specialist units from the time allocation applications are solicited until Allocation Committee meetings. This should help to maintain the integrity of the allocation process and ensure that inappropriate contacts and solicitations are not permitted. The Commission also notes that the current Policy requires specialist units to disclose all contacts with the listing company within six months of the date that allocation applications are solicited. The Commission believes that it is appropriate for the Allocation Committee, in allocating a stock to a specialist unit or selecting units to be interviewed by the listing company, to consider prior contacts between the listing company and the specialist units as a factor in the decisionmaking process.<sup>17</sup>

The Commission further believes that the provisions of the proposal restricting written material to information pertaining to the specialist unit, except overall floorwide statistics, is reasonable as it allows specialist units to provide evidence of their own perceived strengths and historical performance, and will help to prevent unsubstantiated claims against other units also competing for the allocation. The NYSE has stated that it will randomly review the written materials supplied by specialist units to listing companies after the allocation process

seeking Floor official approval of non-regulatory delayed openings, timelessness of DOT turnaround, and response to administrative messages.

<sup>16</sup> *Id.*

<sup>17</sup> See Amendment No. 1, *supra* note 4.

<sup>11</sup> This is similar to the Policy's current approach to relisting and listed company mergers.

<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

has been completed to discover any inaccuracies in the material.<sup>18</sup> While the Commission believes that prior review by Exchange staff of all written materials provided to listing companies would help to ensure that information provided by specialist units is not false, misleading, or ambiguous, we note that specialists are still under a duty to ensure that their statements, both oral and written, are not misleading or false. In light of the NYSE's representations that appropriate regulatory action will be taken in the event that any problems are discovered, the Commission believes that it is reasonable for the NYSE to initially start with a random review by Exchange staff of written material provided to listing companies by specialist units after the allocation process has been completed.<sup>19</sup> If such reviews disclose problems with communications, we would expect the NYSE to consider replacing its review process with a more comprehensive one to be conducted prior to the allocation.

In addition, the NYSE represents that all interviews between specialist units and listing companies will continue to be attended by staff of the Exchange's Listing Department. Moreover, members of the Exchange's Regulatory staff will randomly attend interviews for two listings each month and conduct meetings with members of the Exchange's Listings staff to educate them on regulatory issues. The Commission believes that the proposed procedures, without placing too great of an administrative burden on the Exchange's Regulatory staff, should ensure that any specialist units making inappropriate remarks to listing companies at interviews will be subject to appropriate regulatory action.

Third, the Commission notes, as described above, that the proposal would change the requirements for listing company letters submitted to the Allocation Committee. Instead of requiring such letters to describe the desired characteristics of the specialist unit, the Policy would be amended to require such letters to contain detailed information regarding the background and operations of the listing company and its industry. The Commission agrees with the NYSE that specific information about the listing company may better assist the Allocation Committee in selecting the appropriate specialist unit(s). The Policy also will continue to prohibit the listing company from identifying a specific specialist unit in its letter to the Allocation

Committee. These requirements together should ensure that the Allocation Committee will be able to select the most qualified units based on the allocation criteria. Accordingly, the Commission finds that the proposed provisions relating to the company's letter are consistent with the Act.

Fourth, the Commission notes that the proposal would generally relax the time frames during which a listing company must meet with and select a specialist unit from the group of units selected by the Allocation Committee. The proposed rule allows the listing company to meet with the selected group of specialist units' representatives by the close of business on the last Exchange business day of the week in which the selection of the group was made, rather than within two business days. In addition, the Policy is being changed to permit the listing company to select its specialist unit as soon as practicable, as opposed to within one business day, following its meeting with representatives of the specialist units.<sup>20</sup> The NYSE has represented that most Allocation Committee meetings occur on Mondays.<sup>21</sup> Accordingly, for most allocations, listing companies will have more time to meet (a total of five business days between Monday and Friday, rather than two) and select their specialist unit. The Commission further notes that should compelling circumstances prevent the required meetings within the established time frames, the proposal grants the Exchange discretion to permit telephone interviews for domestic listing companies.<sup>22</sup> Otherwise, the proposal would permit telephone interviews solely for non-U.S. listing companies. The Commission believes that the proposed time frames are reasonable and should allow, in most cases, sufficient opportunity for specialist units to prepare for the interviews and for listing companies to arrange to meet

with representatives of the selected specialist units.

Fifth, the Commission believes that the Exchange's deletion of the proposed sentence in the Policy inviting a listing company to include in its letter to the Allocation Committee its preference not to be traded by specialist units trading competitors' stock is appropriate and consistent with the Act. The Commission believes that the existence of the provision would serve only to encourage the expression of such preferences and consequently, to unnecessarily limit the pool of specialist units to be selected by the Allocation Committee. In addition, the Commission does not believe there is any regulatory reason to prohibit a specialist unit from trading competitors' stock. Indeed, a specialist's market making expertise in a certain industry may actually prove to be a benefit to a listing company. Although the Policy will not prohibit listing companies from expressing such preferences in letters to the Allocation Committee, the Commission believes that the absence of the provision in the Exchange's Policy should enhance competition among specialist units to the benefit of both listing companies and the Exchange.

Sixth, the proposal allows the Allocation Committee to select an alternate unit in cases in which only three units are selected to be interviewed. The Commission recognizes that based on the established time frames, situations may arise in which either the listing company or a particular specialist unit cannot meet at the appointed time. Accordingly, the Commission believes that when only three specialist units are selected by the Allocation Committee, the selection of an alternate unit to be interviewed by the listing company is reasonable and will ensure an adequate pool from which to select a specialist.

Finally, the Commission believes that the NYSE's proposal to allow a listing company that is a spin-off of or related to a listed company to choose to stay with the specialist unit for the related company is reasonable because of the relationship between the spun-off company and the former company. The proposal also requires the Allocation Committee to honor the spin-off company's request not to be allocated to the specialist unit that had traded the related company's stock. The Commission recognizes that both allowing the spin-off company to stay with the original specialist unit and barring the original specialist unit from receiving the listing does raise some concerns about ensuring that all specialist units will be allowed to

<sup>20</sup> As noted above, under the amended Policy, if a listing company meets with any of its specialist units on the last Exchange business day of the week, it must make its decision on that day.

<sup>21</sup> Telephone conversation between Donald Siemer, Director, Rule Development, NYSE, and Deborah Flynn, Attorney, Division, Commission, on November 3, 1997.

<sup>22</sup> The Exchange stated in its filing that in-person interviews have shown to be more effective. Accordingly, telephone interviews generally are not permitted unless the NYSE approves of it for compelling circumstances. The Exchange has stated that compelling circumstances would include bad weather, which may severely hamper a listing company's ability to attend a scheduled interview. Telephone conversation between Donald Siemer, Director, Rule Development, NYSE, and Deborah Flynn, Attorney, Division, Commission, on November 3, 1997.

<sup>18</sup> See Amendment No. 1, *supra* note 4.

<sup>19</sup> Regulatory action which the NYSE could consider would include reallocation of the stock.

compete for the allocation on an equal basis. Nonetheless, the Commission believes that there may be legitimate reasons why an unlisted company may want to remain with the related company's specialist unit or may believe it is more appropriate to be allocated to a new specialist unit rather than the one that has dealings with the related company. For the same reasons, the Commission believes that the provisions which allow a listing company to choose Option 2 and request that the Allocation Committee include or exclude the specialist unit registered in the related listed stock are reasonable. Accordingly, the Commission finds these provisions are consistent with the Act.

The Commission finds good cause for approving proposed Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that Amendment No. 1 further clarifies the process by which listings are allocated to specialist units and raises no new regulatory issues. Specifically, Amendment No. 1 interprets the Policy's provisions relating to interviews between listing companies and specialist units, written materials provided to listing companies by specialist units, and specialist units' contact with listing companies during the six month period prior to the solicitation of allocation applications and helps to strengthen the proposal and ensure compliance with the Policy. Regarding the deletion of the proposal to permit listing companies to state their preference not to be traded by units trading competitors' stock, the Commission notes that the elimination of this provision, which would have further restricted the pool of specialist units to be allocated a particular listing, raises no issues of regulatory concern. Finally, the Commission notes that no comments were received on the publication of the proposal or at the time of the approval and subsequent extensions of the pilot program. Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5) of the Act,<sup>23</sup> to approve Amendment No. 1 to the NYSE's proposed rule change on an accelerated basis.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of all such filings will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-97-30 and should be submitted by February 18, 1998.

#### V. Conclusion

The Commission believes that the Exchange's amended pilot program, which allow greater listing company input, has been crafted to ensure that allocation decisions continue to be based primarily on specialist performance and objective criteria. In addition, the Commission believes that the procedures adopted by the NYSE in the Policy will help to identify, minimize and penalize potential conflicts arising out of the relationships between specialist units and listing companies and ensure the continued integrity of the allocation process. Based on this, we believe the permanent approval of Option 2, along with the amendments to the Policy, are reasonable and consistent with the requirements of the Act applicable to a national securities exchange, and in particular, with the requirements of Section 6 of the Act<sup>24</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>25</sup> that the proposed rule change (SR-NYSE-97-30), including Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>26</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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<sup>24</sup> 15 U.S.C. 78f.

<sup>25</sup> 15 U.S.C. 78s(b)(2).

<sup>26</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Deadline for Submission of Application for Airport Grant Funds Under the Airport Improvement Program (AIP) for Fiscal Year 1998

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces May 1, 1998, as the deadline for having on file with the FAA an acceptable application for airport grant funds under the AIP for fiscal year 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stanley Lou, Manager, Programming Branch, Airports Financial Assistance Division, Office of Airport Planning and Programming, APP-520, on (202) 267-8809.

**SUPPLEMENTARY INFORMATION:** Section 47105(f) of Title 49, United States Code, provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary, by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for passenger and cargo entitlement funds. Notification of the sponsor's intent to apply during fiscal year 1998 for any of its entitlement funds, including those unused from prior years, shall be in the form of a project application (SF 424) submitted to the FAA field office no later than May 1, 1998.

This notice is promulgated to expedite and prioritize grants in the final quarter of the fiscal year. Absent an acceptable application by May 1, FAA intends to defer an airport's entitlement funds until the next fiscal year.

Issued in Washington, DC, January 22, 1998.

**Stan Lou,**  
Manager, Programming Branch.

[FR Doc. 98-2015 Filed 1-27-98; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Monthly Notice of PFC Approvals and Disapprovals. In December 1997, there were seven applications approved. This notice also includes information on two

<sup>23</sup> 15 U.S.C. 78f(b)(5).