amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale. Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) authorizes the Pension Benefit Guaranty Corporation (''PBGC'') to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under the PBGC's regulation on variances for sales of assets (29 CFR 4204), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (sections 4204.12 and 4204.13) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the three regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. 552(b)(4) of the Freedom of Information Act.

Under section 4204.22, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 4204.22(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption. The PBGC received no comments on the request for exemption.

Decision

On July 9, 2003, the PBGC published a notice of the pendency of a request by the Baseball Expos, L.P. (the ''Buyer'') for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its purchase of the Montreal Expos Baseball Team from the Florida Marlins, L.P. (formerly known as Montreal Expos, L.P.) (the ''Seller'') (68 FR 41024). According to the request, the Major League Baseball Players Pension Plan (the ''Plan'') was established and is maintained pursuant to a collective bargaining agreement between the professional major league baseball teams (the ''Clubs'') and the Major League Baseball Players Association (the ''Players Association'').

According to the Buyer's representations, the Seller was obligated to contribute to the Plan for certain employees of the sold operations. Effective February 15, 2002, the Buyer and seller entered into an agreement under which the Buyer agreed to purchase substantially all of the assets and assume substantially all of the liabilities of the Seller relating to the business of employing employees under the Plan. The Buyer agreed to contribute to the Plan for substantially the same number of contribution base units as the Seller. The Seller agreed to be secondarily liable for any withdrawal liability it would have had with respect to the sold operations (if not for section 4204) should the Buyer withdraw from the Plan within the five plan years following the sale and fail to pay its withdrawal liability. The amount of the bond/escrow required under section 4204(a)(1)(B) of ERISA is $1,254,904. The estimated amount of the unfunded vested benefits allocable to the Seller with respect to the operations subject to the sale could be as high as $11,200,000. The transaction had to be approved by Major League Baseball, which required that the debt-equity ratio of the Buyer be no more than 60 percent. While the separate major league clubs are the nominal contributing employers to the Plan, the Major League Central Fund, under the Officer of the Commissioner, receives the revenues and makes the payments for certain common expenses including each club's contribution to the Plan. In support of the waiver request, the requester asserts that: ''The Plan is funded directly from Revenues which are paid from the Central Fund directly to the Plan without passing through the hands of any of the clubs. Therefore, the Plan enjoys a substantial degree of security with respect to contributions on behalf of the clubs. A change in ownership of a club does not affect the obligation of the Central Fund to fund the Plan out of the Revenue. As such, approval of this exemption request would not significantly increase the risk of financial loss to the Plan.''

Based on the facts of this case and the representations and statements made in connection with the request for an exemption, the PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the Plan. Therefore, the PBGC hereby grants the request for an exemption for the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the Plan sponsor.

Issued at Washington, DC, on this 20th day of October 2003.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 03–26911 Filed 10–23–03; 8:45 am]

BILLING CODE 7708–01–P

POSTAL SERVICE

Sunshine Act Meeting

DATES AND TIMES: Monday, November 3, 2003; 10:30 a.m. and 3 p.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant

Plaza, SW., in the Benjamin Franklin Room.

STATUS: November 3—10:30 a.m. (Closed); 3 p.m. (Open).

MATTERS TO BE CONSIDERED:

Monday, November 3—10:30 a.m. (Closed)

1. Financial Transparency.
2. Strategic Planning.
3. Personnel Matters and Compensation Issues.

Monday, November 3—3 p.m. (Open)

1. Minutes of the Previous Meeting, October 2–3, 2003.
2. Remarks of the Postmaster General and CEO.
3. Quarterly Report on Service Performance.
4. Capital Investments.
a. Accounts Payable Replacement System.
b. 120 Automatic Flats Tray Lidders.
c. 2,014 Cargo Vans.
5. Tentative Agenda for the December 8–9, 2003, meeting in Washington, DC.

FOR FURTHER INFORMATION CONTACT: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 03–27083 Filed 10–22–03; 3:58 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of October 27, 2003:

An Open Meeting will be held on Wednesday, October 29, 2003 at 10 a.m., in Room 6600.

The subject matter of the Open Meeting scheduled for Wednesday, October 29, 2003 will be:

1. The Commission will hear oral argument on an appeal by the Division of Enforcement and the Office of the Chief Accountant (together, the ''Division'') from the decision of an administrative law judge in a proceeding brought against James Thomas McCurdy, a certified public accountant. The administrative law judge found that McCurdy did not engage in improper professional conduct within the meaning of Rule 102(e) of the Commission's Rules of Practice in connection with his audit of the financial statements of JWB Aggressive Growth Fund (the ''Fund''), a registered investment company, for the year ending December 31, 1998. The law judge found that McCurdy's audit of the Fund's financial statements was not performed in accordance with generally accepted auditing standards (''GAAS''), primarily because McCurdy failed to obtain sufficient competent evidence about the probable collectibility of a receivable that was recorded as an asset in the Fund's financial statements. The law judge also found that the record did not establish the charge that the Fund's financial statements were not in accordance with generally accepted accounting principles (''GAAP'') because the Division did not establish that the receivable was not collectible. The law judge further found that McCurdy's professional conduct was neither reckless nor highly unreasonable and thus did not constitute a violation of Rule 102(e) as charged. The law judge therefore dismissed the charges against McCurdy.

Among the issues likely to be argued are:

1. whether McCurdy obtained sufficient competent evidence about the collectibility of the receivable.
2. whether the Fund's financial statements were in accordance with GAAP.
3. whether McCurdy's audit of the Fund's financial statements were in accordance with GAAS.
4. whether McCurdy's professional conduct was reckless or highly unreasonable.
5. if McCurdy's conduct was reckless or highly unreasonable, whether sanctions should be imposed in the public interest.

For further information, please contact the Office of the Secretary at (202) 942–7070.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: October 21, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–26972 Filed 10–21–03; 5:00 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48657; File No. SR–Amex–2003–87]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Allocation and Performance Evaluation Procedures for Securities Admitted to Dealings on an Unlisted Basis

October 17, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on October 3, 2003 the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b-4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] 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 seeks a six-month extension of its allocations and performance evaluation procedures for securities admitted to dealings on an unlisted trading privileges (''UTP'') basis to permit these programs to remain in effect while the Commission considers permanent approval of these procedures.

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 Exchange included statements concerning the purpose of, and basis for, its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex 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

The Exchange proposes to extend its specialist allocation and performance evaluation rules for securities admitted to dealings on a UTP basis to permit the Commission to consider the permanent approval of these rules. The Commission approved on a pilot basis, through two independent approval orders, the Exchange's specialist

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

[2] 17 CFR 240.19b-4.

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

[4] 17 CFR 240.19b-4(f)(6).

[5] The Commission waived the five-day pre-filing notice requirement. *See* Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii). The Amex also asked the Commission to waive the 30-day operative delay.