

*Previous Requests for Comments:* The RRB has already published the initial 60-day notice (74 FR 10971 & 10972 on March 13, 2009) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

*Information Collection Request (ICR)*

*Title:* Pension Plan Reports.

*OMB Control Number:* OMB 3220-0089.

*Form(s) submitted:* G-88p, G-88r and G88r.1.

*Expiration date of current OMB clearance:* 5/31/2009.

*Type of request:* Extension with change of a currently approved collection.

*Affected public:* Business or other for profit.

*Abstract:* The Railroad Retirement Act provides for payment of a supplemental annuity to a qualified railroad retirement annuitant. The collection obtains information from the annuitant's employer to determine (a) the existence of a railroad employer pension plans and whether such plans, if they exist, require a reduction to supplemental annuities paid to the employer's former employees and (b) the amount of supplemental annuities due railroad employees.

*Changes Proposed:* The RRB proposes no changes to the forms in the collection.

*The total burden estimate for the ICR is as follows:*

*Estimated annual number of respondents:* 500.

*Total annual responses:* 765.

*Total annual reporting hours:* 103.

*Additional Information or Comments:* Copies of the form and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312-751-3363) or [Charles.Mierzwa@rrb.gov](mailto:Charles.Mierzwa@rrb.gov).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 or [Ronald.Hodapp@rrb.gov](mailto:Ronald.Hodapp@rrb.gov) and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Charles Mierzwa,**  
Clearance Officer.

[FR Doc. E9-11404 Filed 5-14-09; 8:45 am]

BILLING CODE 7905-01-P

## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11740 and #11741]

### Alabama Disaster #AL-00022

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Alabama (FEMA-1836-DR), dated 05/08/2009.

*Incident:* Severe Storms, Flooding, Tornadoes, and Straight-line Winds.

*Incident Period:* 04/10/2009 through 04/13/2009.

*Effective Date:* 05/08/2009.

*Physical Loan Application Deadline Date:* 07/07/2009.

*Economic Injury (EIDL) Loan Application Deadline Date:* 02/08/2010.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 05/08/2009, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cullman, Dekalb, Jackson, Jefferson, Marshall.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere .....	4.500.
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	4.000.

The number assigned to this disaster for physical damage is 11740B and for economic injury is 11741B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-11391 Filed 5-14-09; 8:45 am]

BILLING CODE 8025-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

*Extension:* Rule 489 and Form F-N; SEC File No. 270-361; OMB Control No. 3235-0411.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below:

Rule 489 (17 CFR 230.489) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires foreign banks and foreign insurance companies and holding companies and finance subsidiaries of foreign banks and foreign insurance companies that are exempted from the definition of "investment company" by virtue of Rules 3a-1 (17 CFR 270.3a-1), 3a-5 (17 CFR 270.3a-5), and 3a-6 (17 CFR 270.3a-6) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) to file Form F-N (17 CFR 239.43), under the Securities Act of 1933 to appoint an agent for service of process when making a public offering of securities in the United States. Approximately 19 entities are required by Rule 489 to file Form F-N, which is estimated to require an average of one hour to complete. The estimated annual burden of complying with the rule's filing requirement is approximately 24 hours, as some of the entities submitted multiple filings.

The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

The collection of information under Form F-N is mandatory. The information provided by the Form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive

Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: May 11, 2009.

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

[FR Doc. E9-11361 Filed 5-14-09; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59898; File No. SR-NYSE-2009-37]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Implementing a Cap on Vendors' Administrative Charges for NYSE OpenBook

May 11, 2009.

#### I. Introduction

On March 26, 2009, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to introduce a cap on the monthly charges that broker-dealers and vendors are required to pay for their use of NYSE OpenBook data for the purposes of administering their provision of NYSE OpenBook product offerings. The proposed rule change was published for comment in the **Federal Register** on April 8, 2009.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The Exchange proposes to introduce a cap on the monthly charges that broker-dealers and vendors are required to pay for their use of NYSE OpenBook data for the purposes of administering their provision of NYSE OpenBook product offerings. A one-year pilot program to simplify and modernize market data administration (the "Unit of Count

Filing") was recently approved for its NYSE OpenBook product packages.<sup>4</sup> The Unit of Count Filing redefined some of the basic "units of measure" that vendors are required to report to the Exchange and on which the Exchange bases its fees for its NYSE OpenBook product packages.

Under the proposal, the Exchange proposes to establish a maximum monthly amount of \$1500 (the "Monthly Maximum") for entitlements consisting of unique individuals within a vendor's organization to whom the vendor distributes NYSE OpenBook data for the sole purpose of administering the vendor's distribution of NYSE OpenBook services externally to the vendor's customers. The Monthly Maximum of \$1500 means that a vendor would have to pay for no more than 25 NYSE OpenBook administrative personnel.

#### III. Discussion and Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposal is consistent with Section 6(b)(4) of the Act,<sup>6</sup> which requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and the requirements under Section 6(b)(5)<sup>7</sup> that the rules of an exchange be designed to promote just and equitable principles of trade, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission also finds that the proposed rule change is consistent with the provisions of Section 6(b)(8) of the Act,<sup>8</sup> which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Finally, the Commission finds that the proposed

rule change is consistent with Rule 603(a) of Regulation NMS,<sup>9</sup> adopted under Section 11A(c)(1) of the Act, which requires an exclusive processor that distributes information with respect to quotations for or transactions in an NMS stock to do so on terms that are fair and reasonable and that are not unreasonably discriminatory.<sup>10</sup>

This proposal would cap the fees for NYSE OpenBook when used by vendors for administrative purposes. The Commission has reviewed the proposal using the approach set forth in the NYSE Arca Order for non-core market data fees.<sup>11</sup> The Commission recently found that NYSE was subject to significant competitive forces in setting fees for its depth-of-book order data in the Unit of Count Filing.<sup>12</sup> There are a variety of alternative sources of information that impose significant competitive pressures on the NYSE in setting the terms for distributing its depth-of-book order data. The Commission believes that the availability of those alternatives, as well as the NYSE's compelling need to attract order flow, imposed significant competitive pressure on the NYSE to act equitably, fairly, and reasonably in setting the terms of its proposal.

Because the NYSE was subject to significant competitive forces in setting the terms of the proposal, the Commission will approve the proposal in the absence of a substantial countervailing basis to find that its terms nevertheless fail to meet an applicable requirement of the Act or the rules thereunder. An analysis of the proposal does not provide such a basis.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-NYSE-2009-37) is hereby approved.

<sup>9</sup> 17 CFR 242.603(a).

<sup>10</sup> NYSE is an exclusive processor of NYSE depth-of-book data under Section 3(a)(22)(B) of the Act, 15 U.S.C. 78c(a)(22)(B), which defines an exclusive processor as, among other things, an exchange that distributes information with respect to quotations or transactions on an exclusive basis on its own behalf.

<sup>11</sup> Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21) ("NYSE Arca Order"). In the NYSE Arca Order, the Commission describes in great detail the competitive factors that apply to non-core market data products. The Commission hereby incorporates by reference the data and analysis from the NYSE Arca Order into this order.

<sup>12</sup> See Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR-NYSE-2008-131).

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>4</sup> See Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR-NYSE-2008-131).

<sup>5</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78f(b)(8).

<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. 59681 (April 1, 2009), 74 FR 16017.