

providing stability, liquidity and continuity in the Exchange's auction market. Recognizing the importance of the specialist in the auction market, the Act and NYSE Rules impose stringent obligations upon specialists.<sup>12</sup> Primary among these obligations are the requirements to maintain fair and orderly markets and to restrict specialist dealings to those that are "reasonably necessary" in order to maintain a fair and orderly market.<sup>13</sup>

The importance of specialist performance to the quality of markets was highlighted during the 1987 and 1989 market breaks. In The October 1987 Market Break Report ("1987 Report"), the Division examined specialist performance on the NYSE on October 19 and 20, 1987.<sup>14</sup> The Division found that, during periods of the greatest volatility in 1987, particularly on October 19, 1987, NYSE specialists had to act as the primary, or sometimes the only, buyers for many of the specialty stocks because of the lack of buying interest by upstairs firms.<sup>15</sup> The increased volume of order flow, coupled with the lack of participation on the part of the upstairs firms, resulted in NYSE specialists having to take large dealer positions.<sup>16</sup> Although many NYSE specialists appeared to perform well under the adverse conditions, specialist performance during this period varied widely.

The Division also examined NYSE specialist performance during the volatile conditions of October 13 and 16, 1989. The Division found that specialist performance during that time was similar in many respects to specialist performance during the 1987 market break.<sup>17</sup> Specifically, the Division found that, during these two periods of extreme market volatility, specialists were confronted with extraordinary order imbalances that required unprecedented capital commitments.<sup>18</sup> As in October 1987, specialists as a whole on October 13,

1989 were substantial buyer in the face of heavy selling pressure, although performance varied among specialists.

Both the 1987 Report and the 1989 Analysis reaffirmed the importance of specialist participation in countering market trends during periods of market volatility. At the same time, the reports emphasized the importance the Commission placed on the NYSE's ability to ensure that all specialists comply with their affirmative and negative market making obligations during such periods.<sup>19</sup>

The Commission recognizes that market conditions may exist at times where it is necessary or desirable to provide specialists with additional flexibility in establishing or increasing a position in order to facilitate their ability to maintain fair and orderly markets, particularly during unusual market conditions. Accordingly, the Commission believes that it is appropriate for the NYSE to remove those provisions of Rule 104.10(5)(i) that require floor official approval for certain specialist purchases on zero-minus ticks and specialist sales on zero-plus ticks.<sup>20</sup> The proposed changes may allow specialists, during periods of market volatility, to keep any general price movements orderly, thereby furthering the maintenance of fair and orderly markets consistent with Sections 6 and 11 of the Act. The Commission emphasizes, however, that the expanded flexibility afforded to specialists by the proposal merely obviates the current required floor official approval for the affected transactions and does not reflect that all specialist purchases on zero-minus ticks and sales on zero-plus ticks are appropriate. Notably, specialists remain subject to their "negative obligations," specifically, the requirement that

specialists are precluded from trading for their own account unless such dealing is necessary for the maintenance of a fair and orderly market.<sup>21</sup>

Finally, the Commission believes that the NYSE's established surveillance procedures and criteria should allow the Exchange to monitor specialist compliance with NYSE Rule 104.10(5)(i). More specifically, the Commission expects the NYSE to monitor carefully compliance with the procedures of NYSE Rule 104 as required under Section 19(g) of the Act.<sup>22</sup>

For the foregoing reasons, the Commission finds that the NYSE's proposal to permit specialists to engage in certain types of transactions by removing existing restrictions that currently limit specialists when establishing or increasing a position in their specialty stocks is consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSE-10), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>23</sup>

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

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## SMALL BUSINESS ADMINISTRATION

### Declaration of Disaster #2965: State of Michigan, Amendment #2

In accordance with information received from the Federal Emergency Management Agency dated September 4, 1997, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster to September 23, 1997.

All other information remains the same, i.e., the deadline for filing applications for economic injury is April 13, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

<sup>21</sup> In addition, NYSE Rule 104.10(5)(i) clearly requires that covered transactions must be reasonably necessary to render the specialist's position adequate to such needs.

<sup>22</sup> Section 19(g) of the Act requires every self-regulatory organization to comply with, and enforce compliance with, the Act, the rules thereunder and its own rules.

<sup>23</sup> 17 CFR 200.30-3(a)(12).

<sup>12</sup> Rule 11b-1 under the Act, 17 CFR 240.11b-1 and NYSE Rule 104.

<sup>13</sup> 17 CFR 240.11b-1(a)(2).

<sup>14</sup> See 1987 Report, February 1988 at xvii, 4-1.

<sup>15</sup> See 1987 Report, 4-23 to 4-24 and 4-26, to 4-27. Generally, "upstairs firms," or block trading desks of large broker dealers (as opposed to specialists and other traders on the NYSE Floor), can, at times, provide an additional source of liquidity for NYSE-listed issues through their trading activities. During the 1987 market break, however, particularly on October 19, 1987, very little buying was effected by upstairs firms, forcing specialists to be the contra-side to large blocks of stock.

<sup>16</sup> See 1987 Report at 4-58.

<sup>17</sup> See Market Analysis of October 13 and 16, 1989 ("1989 Analysis") at 3-4 and 33-44.

<sup>18</sup> See 1987 Report at 4-8 and 1989 Report at 23-26.

<sup>19</sup> A specialist's dealer responsibilities consist of "affirmative" and "negative" obligations. In accordance with their affirmative obligations, specialists are obligated to trade for their own accounts to minimize order disparities and contribute to continuity and deputy in the market. Conversely, pursuant to their negative obligations, specialists are precluded from trading for their own accounts unless such dealing is necessary for the maintenance of a fair and orderly market. In view of these obligations, the price trend in a security should be determined not by specialist trading but by the movements of the incoming orders that initiate these trades.

<sup>20</sup> The Commission notes that Rule 104.10(5)(i) currently only requires floor official approval for purchases or sales at a price equal to the last sale price when all or substantially all the stock offered/bid on the limit order book represents all or substantially all the stock offered/bid in the market. Moreover, the rule currently does not require floor official approval of such transactions if they are effected in "less active markets" where they are an essential part of a proper course of dealings and where the amount of stock involved and the price change, if any, are normal in relation to the market.

Dated: September 8, 1997.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

[CGD 97-061]

**National Offshore Safety Advisory Committee**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Offshore Safety Advisory Committee (NOSAC) will meet to discuss various issues relating to offshore safety. The meeting will be open to the public.

**DATES:** The meeting of NOSAC will be held on Thursday, October 23, 1997 from 8:30 a.m. to 2:30 p.m. Written material and requests to make oral presentations should reach the Coast Guard on or before October 9, 1997.

**ADDRESSES:** The NOSAC meeting will be held at Transocean Offshore Inc., 4 Greenway Plaza, Room C100, Houston, Texas. Written material and requests to make oral presentations should be sent to Captain R.L. Skewes, Commandant (G-MSO), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

**FOR FURTHER INFORMATION CONTACT:**

Captain R.L. Skewes, Executive Director of NOSAC, or Mr. Jim Magill, Assistant to the Executive Director, telephone (202) 267-0214, fax (202) 267-4570.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2.

**Agenda of Meeting**

The agenda includes the following:

(1) Introduction and swearing-in of new members.

(2) Progress report from the Prevention Through People Subcommittee.

(3) Progress report from the Subcommittee on Pipeline. Free Anchorage for Mobile Offshore Drilling Units (MODUs), Liftboats and Vessels.

(4) Status report on revision of 33 CFR Subchapter "N", Outer Continental Shelf Regulations.

(5) Status report on the Final Rule of 46 CFR Subchapter "L" on Offshore Supply Vessels (OSVs) and Liftboats.

(6) Report on issues concerning the International Maritime Organization

(IMO) and the International Organization of Standardization (ISO).

(7) Status report from Safety Regulatory Reform Subcommittee.

(8) Report from subcommittee on Big "L" OSVs, Crew Boats, Alternate Tonnage and Licensing of OSVs.

**Procedural**

The meeting is open to the public. At the Chairperson's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive Director no later than October 9, 1997. Written material for distribution at the meeting should reach the Coast Guard no later than October 9, 1997. If you would like a copy of your material distributed to each member of the Committee or Subcommittee in advance of the meeting, please submit 25 copies to the Executive Director no later than October 9, 1997.

**Information on Services for Individuals With Disabilities**

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Assistant to the Executive Director as soon as possible.

Dated: September 10, 1997.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety and Environmental Protection.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

[Docket No. 28895]

**Airport Privatization Pilot Program: Application Procedures**

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

**ACTION:** Notice of final application procedures.

**SUMMARY:** Section 149 of the Federal Aviation Authorization Act of 1996 establishes an airport privatization pilot program, and authorizes the Department of Transportation to grant exemptions from certain Federal statutory and regulatory requirements for up to five airport privatization projects. A request for participation in the airport privatization pilot program will be initiated by the filing of either a preliminary or final application for exemption with the FAA. This statement identifies the issues the Department will consider in granting

exemptions and approving the transfer of a public use airport under the program; it also describes the application procedures to be used by interested public airport sponsors and private parties to apply for an exemption under the program.

**DATES:** This policy is effective on publication. With exception noted below, preliminary and final applications for exemption will be accepted on or after December 1, 1997, and will be handled on a first-come first-served basis until the limits of section 47134 are reached. An otherwise qualifying preliminary or final application for exemption will be accepted before December 1, 1997, if the sponsor has issued, on or before the date of publication of this notice, a formal solicitation or request for proposals for the sale or lease of an airport. All applications will be evaluated in the order of receipt.

**FOR FURTHER INFORMATION CONTACT:**

Benedict D. Castellano Manager, (202-267-8728) or Kevin C. Willis (202-267-8741) Airport Safety and Compliance Branch, AAS-310, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591,

**SUPPLEMENTARY INFORMATION:**

**Introduction and Background**

This notice of application procedures to be used by applicants for an airport privatization project is being published pursuant to section 149 of the Federal Aviation Administration Authorization Act of 1996, Public Law 104-264 (October 9, 1996) (1996 Reauthorization Act), which adds a new section 47134 to Title 49 of the U.S. Code. Section 47134 authorizes the Secretary of Transportation, and through delegation, the FAA Administrator, to exempt a sponsor of a public use airport that has received Federal assistance, from certain Federal requirements in connection with the privatization of the airport by sale or lease to a private party. Specifically, the Administrator may exempt the sponsor from all or part of the requirements to use airport revenues for airport-related purposes, to pay back a portion of Federal grants upon the sale of an airport, and to return airport property deeded by the Federal Government upon transfer of the airport. The Administrator is also authorized to exempt the private purchaser or lessee from the requirement to use all airport revenues for airport-related purposes, to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.