

[Release No. 34-35662; File No. SR-NYSE-95-06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Amendment of the Exchange's Allocation Policy and Procedures

May 2, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 28, 1995, the New York Stock Exchange, Inc. ("NYSE" 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 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 proposed rule change consists of an amendment to the Exchange's Allocation Policy and Procedures (the "Policy") which would limit, to 25%, the weight that the Specialist Performance Evaluation Questionnaire ("SPEQ") could be given in the Exchange's allocation decision making process.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 intent of the Policy is to ensure that each security is allocated in the fairest manner possible to the best specialist unit for that security. In order to enhance its stock allocation decisions, the Exchange conducts periodic reviews of its allocation process. As the result of its most recent

review, the Exchange is proposing to amend the Policy to limit, to no more than 25%, the weight that the SPEQ may be given in the allocation decision making process. Currently, the Policy permits the Allocation Committee to grant up to one third weight to SPEQ results in its allocation decisions. The Allocation Committee also considers objective measures of specialist performance and its own professional judgment in making its allocation decisions.

In 1992, the Exchange proposed to limit the weight that the SPEQ could be given in the allocation decision making process to 25%.¹ At that time, there was no limit to the weight that the SPEQ could be afforded. The Exchange proposed this limit in order to increase the emphasis that its Allocation Committee would give to objective measures of performance, as well as the Committee's expert professional judgment. The Exchange also proposed, at that time, to amend the Policy to state explicitly that its objective measures of performance also included a specialist's TTV (twice total volume) rate, stabilization rate, and any other measures that the Exchange might later adopt. While the Commission stated its belief that it was appropriate to limit the SPEQ's weight in order to increase the emphasis given to objective measures of performance, it requested that the Exchange amend its proposal to limit the weight granted the SPEQ to one third.²

Since 1992, the Exchange has developed two new objective measures of specialist performance that it believes should play an important role in allocation decisions. The first objective measure of performance pertains to specialist capital utilization. Adopted in December 1993, on a pilot basis, the capital utilization measure of specialist performance focuses on a specialist unit's use of its own capital in relation to the total dollar value of trading activity in the unit's stocks.³ The pilot has been extended until June 30, 1995.⁴ The Allocation Committee is being provided with specialist capital utilization information for its use in allocation decisions. The second objective measure of performance, which was recently developed, pertains to "near neighbors." The Exchange has

¹ See Securities Exchange Act Release No. 33121 (October 29 1993), 58 FR 59085 (November 5, 1993).

² See Securities Exchange Act Release No. 33121, *supra* note 1, at n.3.

³ See Securities Exchange Act Release No. 33369 (December 23, 1993), 58 FR 69431 (December 30, 1993).

⁴ See Securities Exchange Act Release No. 35175 (December 29, 1994), 60 FR 2167 (January 6, 1995).

filed, on a one year pilot basis, for Commission approval of this new measure.⁵ The "near neighbors" measure compares certain performance measures of a given stock (price continuity, depth, quotation spread, and capital utilization) to those of its "near neighbors," i.e., stocks that have certain similar characteristics. The Exchange would provide "near neighbor" information to the Allocation Committee for its use in allocating newly-listed stocks.

With the addition of these new objective measures of performance, the Exchange believes that it would be appropriate to limit the weight that the SPEQ is afforded in the allocation process to 25%.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed rule change is consistent with these objectives in that it enables the Exchange to further enhance the process by which stocks are allocated.

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 written comments on the proposed rule change.

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

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 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 the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

⁵ See Securities Exchange Act Release No. 35661 (May 2, 1995) (File No. SR-NYSE-95-05).

(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, DC 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 at the Commission's Public Reference section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-95-06 and should be submitted by May 30, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Office before the deadline.

COPIES: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Office and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Small

Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205-6629

OMB Reviewer: Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503

Title: Lender/EDI Participant Profile

Form No.: SBA Form 1944

Frequency: On Occasion

Description of Respondents: SBA

Participating Lenders

Annual Responses: 8,337

Annual Burden: 2,779

Calvin Jenkins,

Assistant Administrator for Administration.

[FR Doc. 95-11232 Filed 5-5-95; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Economic Injury Disaster Loan Area #8506]

Declaration of Disaster Loan Area; Commonwealth of Massachusetts (and Contiguous Counties in New Hampshire)

Essex County and the contiguous counties of Middlesex and Suffolk in the Commonwealth of Massachusetts and Hillsborough and Rockingham in the State of New Hampshire constitute an economic injury disaster area as a result of damages caused by a fire which occurred on February 27, 1995 in the town of Peabody, Massachusetts. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on February 1, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations: The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number assigned to this disaster for the State of New Hampshire is 850700.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: May 1, 1995.

Cassandra M. Pulley,

Acting Administrator.

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