

Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, each Trust will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

11. So long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable contract owners, the Participating Investor will vote their shares in the same proportion as all contract owners having voting rights with respect to the relevant Funds; provided, however, that the Participating Investor shall vote their shares in such other manner as may be required by the Commission or its staff.

12. If and to the extent that Rules 6e-2 and Rule 6e-3(T) under the 1940 Act are amended, or Rule 6e-3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed funding or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Trusts and/or Participating Insurance Companies, as appropriate, will take such steps as may be necessary to comply with Rules 6e-2 and 6e-3(T), as amended, or Rule 6e-3, as adopted, to the extent that such rules are applicable.

13. The Reporting Entities, at least annually, will submit to the relevant Board such reports, materials, or data as the Board may reasonably request so that the Board may fully carry out the obligations imposed upon it by the conditions contained in this Application. Such reports, materials, and data will be submitted more frequently if deemed appropriate by the Board. The obligations of the Participating Insurance Companies and the Reporting Plans to provide these reports, materials, and data to the Board will be a contractual obligation under their agreements governing participation in the Funds.

14. If a Participating Plan should ever become a holder of ten percent or more of the issued and outstanding shares of a Fund, such plan will execute a participation agreement with the Fund, which will include the conditions set forth herein to the extent applicable. A Participating Plan will execute a document containing an acknowledgement of this condition upon such plan's initial purchase of the shares of any Fund.

15. Any shares of a Fund purchased by the Manager or its affiliates will be automatically redeemed if and when the Manager's investment management agreement terminates, and to the extent required by the applicable Treasury Regulations. No Participating Investor will sell such shares of the Funds to the public.

### Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-30325 Filed 12-6-01; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45118; File No. SR-NYSE-2001-34]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Amending NYSE Rule 103A To Delete an Unused Measure of Specialist Performance

November 29, 2001.

On August 29, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with 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 NYSE Rule 103A (Specialist Stock Reallocation and Member Education and Performance) to delete an unused measure of specialist performance.

Currently, NYSE Rule 103A provides authority for the Market Performance Committee ("MPC") to establish and administer measures of specialist performance, conduct performance improvement actions where a specialist unit does not meet the performance standards in the Rule, and reallocate stocks if a unit does not achieve its specified goals when subject to a performance improvement action. The performance standards in the Rule include the Specialist Performance

Evaluation Questionnaire, timeliness of stock openings, SuperDot order turnaround, administrative message responses and market share. This latter provision refers to a significant decline in market share, as measured by share volume, in two consecutive quarters where the decline is determined to be attributable to factors within the control of the specialist unit.

At the time the Exchange adopted the market share measure, it was intended that the Exchange would develop criteria as to what constitutes "significant decline" before the market share performance standard could be enforced. However, criteria were never developed, and the MPC has never used the market share standard as a performance measure.

The proposed rule change was published for comment in the **Federal Register** on October 26, 2001.<sup>3</sup> The Commission received no comments on the proposal.

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>4</sup> and, in particular, the requirements of section 6 of the Act.<sup>5</sup> The Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,<sup>6</sup> which requires, among other things, that the rules of an exchange promote just and equitable principles of trade and in general to protect investors and the public interest. The Commission believes that the remaining measurements of specialist performance set forth in NYSE Rule 103A should be sufficient to assist the Exchange in ensuring a certain level of market quality and performance in Exchange listed securities is maintained. The Exchange should continue to review its standards for measuring specialist performance and ensure that there are adequate, objective measures to assess such performance.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-NYSE-2001-34) be, and it hereby is, approved.

<sup>3</sup> See Securities Exchange Act Release No. 44961 (October 19, 2001), 66 FR 54316.

<sup>4</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>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-30323 Filed 12-6-01; 8:45 am]

**BILLING CODE 8010-01-M**

## **SMALL BUSINESS ADMINISTRATION**

### **Reporting and Recordkeeping Requirements Under OMB Review**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of reporting requirements submitted for OMB 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:** Submit comments on or before January 7, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer 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.

**ADDRESSES:** Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

#### **FOR FURTHER INFORMATION CONTACT:**

Jacqueline White, Agency Clearance Officer, (202) 205-7044.

#### **SUPPLEMENTARY INFORMATION:**

*Title:* Lender Transcript of Account.  
*No.:* SBA Form 1149.

*Frequency:* On Occasion.

*Description of Respondents:* Lenders requesting SBA to provide the Agency with breakdown of payments.

*Annual Responses:* 5,000.

*Annual Burden:* 5,000.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 01-30311 Filed 12-6-01; 8:45 am]

**BILLING CODE 8025-01-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **RTCA Special Committee 187: Mode Select Beacon and Data Link System**

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

**ACTION:** Notice of RTCA Special Committee 187 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 187: Mode Select Beacon and Data Link System.

**DATES:** The meeting will be held December 18, 2001, from 9 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at RTCA, 1828 L Street, NW., Suite 805, Washington, DC 20036.

#### **FOR FURTHER INFORMATION CONTACT:**

RTCA Secretariat, 1828 L Street, NW., Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 187 meeting. The agenda will include:

- December 18:
  - Opening Session (Chairman's Introductory Remarks, Review and Approve Agenda)
  - Review and Approve Proposed Change 1 to RTCA DO-181C, RTCA Paper No. 368-01/SC187-042, *Addition of Hijack Mode Operations*
  - Closing Session (Other Business, Date and Time of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 27, 2001.

**Janice L. Peters,**

*FAA Special Assistant, RTCA Advisory Committee.*

[FR Doc. 01-30361 Filed 12-6-01; 8:45 am]

**BILLING CODE 4910-13-M**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Highway Administration and Federal Railroad Administration**

#### **Environmental Impacts Statement: New York/New Jersey**

**AGENCY:** Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

**ACTION:** Notice of meeting.

**SUMMARY:** Notice of Public Scoping Meetings in Preparation of a Draft Environmental Impact Statement for the Cross Harbor Freight Movement Project.

The New York City Economic Development Corporation (NYCEDC), as project sponsor, in coordination with the Federal Highway Administration (FHWA) and the Federal Railroad Administration (FRA) as joint lead agencies, is preparing an Environmental Impact Statement (EIS) for the Cross Harbor Freight Movement Project. As part of the Cross Harbor Freight Movement Project, strategies for enhancing freight mobility within the New York City/northern New Jersey region are being evaluated. A Major Investment Study (MIS), completed in 2000, identified several strategies that satisfied established project goals and objectives. The purpose of the EIS is to examine the ability of the selected strategies to improve mobility of goods traffic, improve environmental quality, enhance the region's competitive position and provide flexibility to respond to possible service disruptions to the region's vital Hudson River Crossings.

NYCEDC will conduct seven (7) public scoping meetings to discuss the proposed draft scope of work for the Draft Environmental Impact Statement (DEIS), and will accept comments from the public. The draft scope of work is available for viewing on-line at [www.crossharborstudy.org](http://www.crossharborstudy.org). One copy of the draft scope of work will also be available at the following libraries: Manhattan, New York Public Library at 188 Madison Ave.; Queens, Queens Borough Public Library at 89-11 Merrick Blvd.; Bronx, Bronx Borough Library at 2556 Bainbridge Ave.; Staten Island, SI Borough Library at 5 Central Avenue; Brooklyn, Brooklyn Public Library Sunset Park at 5108 4th Ave. (at 51st St.); Jersey City, Jersey City Public Library at 472 Jersey Ave.; Elizabeth, Elizabeth Public Library at 11 South Broad St.

**DATES:** The seven (7) meetings will be held at the following locations within the New York/New Jersey metropolitan area:

<sup>8</sup> 17 CFR 200.30-3(a)(12).