C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. 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, NW., 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 Exchange. All submissions should refer to File No. SR–BSE–96–02 and should be submitted by [insert date 21 days from date of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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, and, in particular, with the requirements of Section 6(b).[1] The Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public.

Although the Commission does not require public companies to distribute interim reports to shareholders,[2] the Commission believes that it is appropriate for the Exchange to encourage its listed companies to provide equal treatment of record and beneficial shareholders in the distribution of reports. Moreover, the BSE's rule change reflects the results of the compromise reached by various industry groups with regard to distribution of interim reports. The Commission believes the BSE's adoption of this industry policy should help create uniformity in the practices of BSE-listed companies with respect to their distribution of interim financial reports.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. The Commission believes that accelerated approval is appropriate given the prior approval of similar proposals by the NYSE, Amex, and the PSE[3] and because the accelerated approval will allow the Exchange to encourage equal distribution of interim reports to record and beneficial shareholders as soon as practicable.

Based on the above, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act, to accelerate approval of the amended proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[4] that the proposed rule change (SR–BSE–96–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7844 Filed 3–29–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. § 78(b).

[2] The interim reports that are the subject of the BSE's rule change are not the quarterly financial reports required to be filed with the Commission on Form 10–Q pursuant to the Commission's authority under Sections 13(a) and 15(d) of the Securities Exchange Act of 1934. *See* 15 U.S.C. §§ 78m(a) and 78o(d) (1988). The reports are voluntarily prepared and published by companies as part of their shareholder relations activities.

[3] *See* Securities Exchange Act Release Nos. 35373 (Feb. 14, 1995), 60 FR 9709 (Feb. 21, 1995); 36541 (Nov. 30, 1995), 60 FR 62921 (Dec. 7, 1995); 36916 (Mar. 4, 1996), 61 FR 9515 (Mar. 8, 1996).

[4] 15 U.S.C. § 78s(b)(2).

[5] 17 CFR 200.30–3(a)(12).

[Release No. 34–37023; File No. SR–NYSE–96–01]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Amending Exchange Rule 460.10

March 25, 1996.

I. Introduction

On January 5, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] the proposed rule change, and on February 26, 1996, submitted Amendment No. 1 to the proposed rule change,[3] to amend Exchange Rule 460.10 to modify certain prohibitions on the ownership by specialists of their specialty securities and to amend provisions that limit the business transactions specialists may engage in with the issuers of specialty securities.

The proposed rule change was published for comment in Securities Exchange Act Release No. 36904 (Feb. 28, 1996), 61 FR 8998 (Mar. 6, 1996). No comments were received on the proposal.

II. Background

NYSE Rule 460.10 prohibits a specialist, his or her member organization or any other member, allied member or approved person in such member organization or officer or employee thereof, individually or in the aggregate, from acquiring more than 10% of the outstanding shares of any equity security in which the specialist is registered. In the event the beneficial ownership of such persons, individually or in the aggregate, in any such security exceeds 5% of the outstanding shares of such security, Rule 460.10 also requires the specialist or his or her member organization to report such fact promptly to Market Surveillance. In such event, Market Surveillance may require any of the persons covered by Rule 460.10 to take appropriate action to either dispose of such beneficial ownership or reduce or eliminate his or her interest in the specialist organization, as may be acceptable to the Exchange. Rule 460.10 also prohibits a specialist, his or her member organization or any other member,

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Donald Siemer, Director, Market Surveillance, NYSE to Glen Barrentine, Team Leader, Division of Market Regulation, SEC, dated February 23, 1996.

allied member, approved person in such member organization or officer or employee from engaging in any business transaction with any company in whose stock the specialist is registered.

III. Description of Proposal

A. Ownership Restrictions

The restrictions on beneficial ownership codified in Rule 460.10 are intended to ensure that a specialist, and persons affiliated therewith, do not enter into a control relationship with an issuer in whose security the specialist is registered, such that the specialist's status as a significant shareholder may create conflicts of interest with respect to his or her affirmative and negative obligations to maintain a fair and orderly market in the security. The Exchange believes that the 10% ownership prohibition of Rule 460.10 as currently in effect is unnecessarily restrictive and applies to certain types of securities that do not give rise to the potential conflict of interest noted above.[4] To remedy this problem, the Exchange is proposing to exempt three types of securities from the 10% ownership prohibition of Rule 460.10.[5]

The first type of securities covered by the proposed amendment are convertible or derivative securities, American or Global Depositary Receipts, or similar instruments, but only to the extent that conversion of any such securities would not result in a position in the common stock exceeding the 10% threshold.

The proposed amendment also would remove the 10% threshold for certain investment companies units (''units''), but again only to the extent redemption of any such security would not result in a position, directly or indirectly, in any equity security in which the specialist is registered exceeding the 10% threshold. To come within the above exemption, the investment company units must be listed pursuant to Section 703.16 of the Exchange's Listed Company Manual.[6] This section sets forth listing standards for units of trading that represent an interest in a registered investment company that is organized either as an open-end management investment company or as a unit investment trust. Under Section 703.16, the investment company would hold directly securities comprising or otherwise based on or representing an interest in an index or portfolio of securities.

Pursuant to Section 703.16, the Commission recently approved the NYSE's proposal to list up to nine series of units in the form of ''CountryBaskets,'' which are based on the open-end management investment company structure and invest directly in a portfolio of securities included in the corresponding Financial Times/ Standard & Poor's Actuaries World Index.[7] In that approval order, the Commission also approved the NYSE's request to amend Rule 460.10 to allow a specialist registered in a security issued by an investment company to purchase and redeem the listed security, or securities that can be subdivided or converted into the listed security, from the issuer, as appropriate to facilitate the maintenance of a fair and orderly market in the subject security.[8] In addition to permitting the purchase and redemption of units from the issuer only as appropriate to facilitate the maintenance of a fair and orderly market in the subject security, any purchases or redemptions must be made at the net asset value and on the same terms and conditions as are available to any other investor.[9]

The Exchange believes that specialists may be required to enter into transactions to effect creation or redemption of the units, and that these transactions may result in an ownership of greater than 10% of an issue of units. Given the open-end nature of these entities, in that securities will be issued on a continuous basis, the Exchange believes that the issue of control by a specialist would not be relevant.[10] Finally, as noted above, under the proposal, a specialist would not be able to hold units which, if redeemed, would result in the specialist holding 10% or more of any individual equity security in which he is registered.

The proposed amendment would also exempt from the 10% threshold, but only with Exchange permission, a currency warrant that trades in relationship to the value of an underlying currency or an index warrant that trades in relationship to the value of an underlying index. With respect to these securities, however, the specialist would not be permitted to acquire a position of more than 25% of the issue.

B. Business Transactions

Rule 460.10 also prohibits a specialist, his or her member organization or any other member, allied member, approved person in such member organization or officer or employee from engaging in any business transaction with any company in whose stock the specialist is registered.[11] This prohibition is designed to prevent a potential conflict of interest by helping to ensure that the issuer does not improperly influence the specialist in the performance of his or her market making duties by the provision of goods or services upon advantageous terms. The Exchange proposes to amend this provision to provide that the prohibition shall not apply to the receipt of routine business services, goods, materials, or insurance on generally available terms. Accordingly, the amended rule would permit business dealings between a specialist and an issuer so long as the service or good is routinely available to the public, confers no special status to the recipient beyond that of a consumer, and is generally available on the same terms and conditions.

IV. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, specifically, with the requirements of Section 6(b).[12] In particular, and for the reasons set forth below, the Commission believes that the proposal, as amended, is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and is

[4] For example, in its filing the Exchange noted that Rule 460.10 would prohibit a specialist registered in both a warrant and the underlying common stock from holding more than a 10% position in a warrant that is convertible into a much smaller percentage of the common stock.

[5] The proposed rule does not change the requirement that the specialist inform Market Surveillance upon the acquisition of 5% or more of a equity issue in which he or she is registered.

[6] The Exchange recently added Section 703.16 to its Listed Company Manual. *See* Securities Exchange Act Release No. 36923, (Mar. 5, 1996), 61 FR 10410 (Mar. 13, 1996) (order approving File No. SR–NYSE–95–23).

[7] Each CountryBasket is designed to provide investment results that substantially correspond to the price and yield performance of the specific index to which it relates. Accordingly, the weighing of the portfolio securities of each series substantially corresponds to their proportional representation in the relevant index. *Id.* Before the Exchange may list any additional securities pursuant to Section 703.16, it must make an appropriate filing pursuant to Section 19(b) of the Act with the Commission to provide the authorization to effect such listings. *Id.*

[8] *Id.*

[9] Additionally, so-called Creation Transactions, must occur through the principal underwriter or distributor and not directly with the issuer. *Id.*

[10] *See* note 6, *infra*.

[11] Under certain circumstances, NYSE Rule 98 affords exemptive relief to approved persons of a specialist organization from restrictions found in various NYSE rules, including certain provisions of NYSE Rule 460. *See* Securities Exchange Act Release No. 36043 (Aug. 1, 1995), 60 FR 35759 (Aug. 7, 1995) (order approving File No. NYSE–95–21).

[12] 15 U.S.C. § 78f(b).

consistent with the protection of investors and the public and with the maintenance of fair and orderly markets.[13]

A. Ownership Restrictions

The established restrictions on ownership of equity securities codified in the NYSE's Rule 460.10 prohibit a specialist, and persons affiliated therewith, from owning more than 10% of the outstanding shares of any equity security in which the specialist is registered. This prohibition is based upon a concern that such a large ownership interest may give rise to a control relationship between the specialist and the issuer that may detract from the specialist's willingness or ability to carry out his or her affirmative and negative obligations to maintain a fair and orderly market in the security. The Commission supports this established restriction and believes that it helps to ensure the specialist's integrity in carrying out his or her obligations. Nevertheless, the Commission acknowledges that, with regard to certain securities, a specialist's position in excess of 10% of the outstanding shares of an equity security may not result in a relationship between the specialist and the issuer that warrants the application of the 10% ownership restriction of Rule 460.10.

The proposal would allow a specialist to hold a position in excess of the 10% threshold in three different types of securities. First, the proposal would exempt from the 10% threshold, a specialist's interests in convertible or derivative securities, including American Depositary Receipts and Global Depositary Receipts, provided that, upon conversion, the position in the underlying common stock does not exceed 10% of an issue in which the specialist is registered. As to such securities, the Commission believes that this change is appropriate because the rule will still ensure that specialists cannot control more than 10% of the underlying issue in which the specialist is registered.

Second, the proposal would allow a specialist to hold a position in excess of the 10% threshold for certain investment company units, provided that the redemption of such units would not result in a position, directly or indirectly, in any security in which the specialist is registered exceeding the 10% threshold. To come within the above exemption, the investment company units must be list pursuant to Section 703.16 of the Exchange's Listed Company Manual. This section sets forth listing standards for units of trading that represent an interest in a registered investment company that is organized either as an open-end management investment company or as a unit investment trust. Under Section 703.16, the investment company would hold directly securities comprising or otherwise based on or representing an interest in an index or portfolio of securities.

As noted earlier, in the case of such securities the specialist would be allowed to purchase or redeem any such security from the issuer only as appropriate to facilitate the maintenance of a fair and orderly market in the subject security.[14] In addition, any such purchase or redemption would have to be made at the net asset value and on the same terms and conditions as are available to any other investor.

Based upon the foregoing restrictions, the fact that the securities will be issued on a continuous basis, and the continued restriction on the specialist holding such units which, upon redemption, would result in a position in any security in which the specialist is registered exceeding the 10% threshold, the Commission believes that the amendment of Rule 460.10 to exempt such securities from the 10% ownership threshold is appropriate.[15]

Lastly, the proposal would allow a specialist, with Exchange permission, to exceed the 10% threshold in a security such as a foreign currency warrant, which trades in relationship to the value of an underlying currency, or an index warrant, which trades in relationship to the value of an underlying index. As to these securities, however, the proposal, as amended, still would prohibit a specialist from acquiring a position of more than 25% of the issue.

Based upon the fact that the specialist must receive the permission of the Exchange in order to exceed the 10% threshold and that in any event the specialist cannot exceed a 25% threshold, the Commission believes that the exemption of the above described securities from the 10% ownership threshold of Rule 460.10 is appropriate. The Commission believes that this exemption is appropriate for foreign currency warrants, because, with the limitations noted, no control relationship is likely to arise with regard to the underlying foreign currency. The Commission also believes that such a relationship is unlikely to arise with regard to an index warrant, at least where the index is sufficiently broad based so that one or a few securities do not dominate the index.[16] The Commission believes that narrow based index warrants, however, could potentially give rise to the conflict of interest that the 10% ownership threshold is designed to address, especially in those situations where the specialist is registered in an equity security that represents a significant weight of the index value. Accordingly, the Commission would expect the Exchange to carefully scrutinize requests to exceed the 10% threshold in such index warrants and to grant permission to exceed the 10% threshold only where such permission is clearly necessary to the Specialist's market making duties and such interest does not present the type of concern addressed by Rule 460.10.

Finally, in approving these exceptions to the 10% ownership threshold, the Commission is also relying upon the continuing provision of Rule 460.10 that requires the specialist to report promptly to Market Surveillance any beneficial ownership by the specialist, and persons affiliated therewith, in any specialty security that, individually or in the aggregate, exceeds 5% of the outstanding shares of such security. The Commission expects the Exchange to pay particular attention to such reports and, as appropriate, to use its authority under Rule 460.10 to require that appropriate action be promptly taken to dispose of such beneficial ownership or to reduce or eliminate the beneficial owner's interest in the specialist organization.[17] Moreover, the Commission notes that, notwithstanding the easing of the prohibition of Rule 460.10 on owning more than 10% of a speciality security, all transactions by specialists remain subject to NYSE Rule 104 and the requirement that specialists effect on the Exchange only such transactions in their specialty securities as are reasonably necessary to permit

[13] 15 U.S.C. § 78f(b)(5).

[14] The Commission believes that the Exchange's existing surveillance procedures should be adequate to ensure that such purchases are made only for the purpose of maintaining fair and orderly markets. *See* Securities Exchange Act Release No. 36923, *supra* note 6.

[15] The Commission notes that its approval of the Exchange's proposal to allow specialists to hold a position in excess of 10% in certain investment company units does not address any other applicable requirements or obligations under the federal securities laws. *See* Securities Exchange Act Release No. 36923, *supra* note 6, at note 42 and accompanying text.

[16] As noted below, to the extent a specialist can control up to 25% of a particular warrant issue, with Exchange approval, the Commission notes that such approval should only be given where it is clearly necessary for a specialist to meet his market making obligations under Rule 104.

[17] NYSE Rule 460.10 specifically gives Market Surveillance the authority to require a reduction in specialist positions that equal or exceed 5% of the total outstanding shares of the equity security in which the specialist is registered.

such specialists to maintain fair and orderly markets.

B. Business Transactions

The Commission believes that the general restrictions of Rule 460.10 on business transactions entered into by specialists with companies in whose stock the specialist is registered help ensure that the issuer does not improperly influence the specialist in the performance of his or her market making duties by the provision of goods or services upon advantageous terms. The proposal would exempt specialists from this prohibition as to the receipt of routine business services, goods, materials, or insurance, on terms that would be generally available.

The Commission believes that the NYSE's proposed rule, as amended, is appropriate as it will continue to proscribe business transactions that may give rise to a conflict of interest, while permitting specialists to engage in routine business transactions that do not raise the concerns that the rule is intended to prevent. The proposal limits the type of business transactions in which a specialist may engage with the issuer of a security in which the specialist is registered to those that are available to all other business entities and consumers on the same terms and conditions and that confer no special status to the recipient beyond that of a consumer. The Commission expects the NYSE to interpret this provision narrowly so as to permit business dealings between a specialist and the issuer of a specialty security only where the service or good is routinely available to the public, confers no special status to the recipient beyond that of a consumer, and is on terms and conditions that are generally available.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 prior to the thirtieth day after the date of publication of notice of such filing thereof in the Federal Register. The Commission notes that accelerated approval of the proposal is appropriate in order to allow the NYSE to trade CountryBasket securities as set forth in File No. SR–NYSE–95–23 on the anticipated initial trading date of March 25, 1996. Moreover, the Commission notes that the proposal, as amended, was noticed for a period of 16 days, and that no comments were received on the proposal during that period.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change (SR–NYSE–96–01), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7842 Filed 3–29–96; 8:45 am]

BILLING CODE 8010–01–M

[18] 15 U.S.C. § 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C Chapter 35).

DATES: March 26, 1996.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. If you anticipate submitting substantive comments, but find that more than 30 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Judith Street; (202) 267–9895; ABC–100; 800 Independence Avenue SW.; Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the Federal Register, requesting emergency processing for 90 days effective March 25, 1996, in accordance with criteria set forth in that Act, for FAA Acquisition Management System Format, 2120-####. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection request was submitted to OMB on March 25, 1996:

1. OMB No: 2120-xxxx

Administration: Federal Aviation Administration (FAA).

Title: FAA Acquisition Management System (FAAAMS).

Need for Information: Pursuant to Section 348 of Public Law 104–50, the FAA hereby develops and implements a new acquisition management system that addressees the unique needs of the agency.

Proposed Use of Information: The information is necessary for the FAA acquisition organization to plan and conduct acquisition of varying types (supplies, services, real estate, etc.), including establishing contracts and monitoring contractor compliance. This information collection is pursuant to all precepts of OMB Circular A–109, Major System Acquisition and Public Law 104–50 ''Making Appropriations for the Department of Transportation and Agencies'', Section 348.

Frequency: On occasion, monthly, annually.

Burden Estimate: 333,292 hours.

Respondents: Individual or households, Business or other for profit, not-for-profit institutions, Federal Government

Number of Respondents: 3,338.

Form(s): one.

Phillip Leach,

Computer Specialist, Information Resource Management (IRM) Strategies Division.

[FR Doc. 96–7827 Filed 3–29–96; 8:45 am]

BILLING CODE 4910–13–P

Federal Highway Administration

[FHWA Docket No. 94–29]

Exemption Criteria Policy for Highway Sanctions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final policy statement.

SUMMARY: The purpose of this notice is to establish a policy concerning exemption criteria used to determine which projects could advance if the Environmental Protection Agency (EPA) imposes highway sanctions in accordance with section 179(a) or section 110(m) of the Clean Air Act