

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, 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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-98-5 and should be submitted by May 5, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-9806 Filed 4-13-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39837; File No. SR-NYSE-97-38]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change to Amend Rule 13 to Create a New Percentage Order Type to be Called "Immediate Execution or Cancel Election"

April 8, 1998.

I. Introduction

On January 2, 1998, 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 a proposed rule change to amend its Rule 13 to create a new percentage order type to be called "Immediate Execution or Cancel Election."

The proposed rule change was published for comment in the **Federal Register** on February 4, 1998.³ No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Currently, NYSE Rule 13 provides for three types of percentage orders: straight limit, last sale, and "buy minus/sell plus." The Exchange believes that the election provisions of these existing types of percentage orders do not adequately meet the need of some investors placing percentage orders, particularly straight limit and last sale percentage orders. For example, investors rely on percentage orders as a way to trade along with the trend of the market without initiating price changes or otherwise influencing the equilibrium or buying and selling interest. However, certain executions of the existing types of percentage orders may initiate price changes, contrary to the "go along" expectations of the customer. In addition, executions of last sale percentage orders may not always be able to be effected, as the market trend may continue to move away from the price at which the order may be executed.

In response, the Exchange proposes to amend Rule 13 to create a new percentage order type to be called "Immediate Execution or Cancel Election." Under the terms of the proposal, the elected portion of a percentage order marked "Immediate Execution or Cancel Election" would be required to be executed immediately in whole or in part at the price of the electing transaction, or better.⁴ If the elected portion cannot be executed at that price or better, the election would be deemed canceled, and the unexecuted elected portion would revert back to a percentage order, subject to subsequent election or conversion.

For example, where an "Immediate Execution or Cancel Election" buy percentage order for 1000 shares at 30½ is placed with the specialist and the next transaction is for 500 shares at 30¼, the specialist would elect 500 shares and must immediately execute the order at the price of the electing transaction, 30¼, or better. If there is liquidity sufficient to execute only 300 shares at the price of the electing transaction, 30¼, or better, the specialist would execute 300 shares at that price and the election of the

⁴The Commission notes that the rule language does not explicitly state that the elected portion of the percentage order must be executed at a better price than the electing price, if immediately available. According to the Exchange, it is clearly implied that the percentage order must be executed at a better price than the price of the electing transaction, if immediately available. Telephone conversation between Donald Siemer, Director of Market Surveillance, NYSE, and Michael Walinskas, Senior Special Counsel, Division, Commission, on April 7, 1998.

remaining 200 shares would be canceled and the 200 shares would revert back to an unelected percentage order. If, instead, the market moves away from the price of the electing transaction to, for instance, 30¾, the election would be canceled⁵ and the unexecuted elected portion would revert back to a percentage order.⁶

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁷ and the rules and regulations thereunder applicable to a national securities exchange.⁸ The Commission believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act⁹ in that it is 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.

The Commission believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market by providing additional flexibility to investors entering percentage orders. Specifically, the proposed "Immediate Execution or Cancel Election" percentage order should allow investors to achieve their investment goals while continuing to limit the specialist's discretion in representing such orders. The Commission believes that requiring the specialist to treat an election as canceled, unless the elected portion can be executed immediately at the price of the electing transaction or better,¹⁰ should ensure that the investor will not be trading ahead of, nor lagging behind, the market when there is insufficient interest to execute the elected portion of

⁵The specialist would not execute the order at 30¾, even though such an execution is within the maximum limit of the percentage order (30½). In this regard, an Immediate Execution or Cancel Election percentage order is treated similar to a last sale percentage order.

⁶According to the NYSE, the Exchange's interpretation of the manner in which the proposed "Immediate Execution or Cancel Election" percentage order would operate corresponds with the examples developed by Commission staff and set forth above. Telephone conversation between Donald Siemer, Director of Market Surveillance, NYSE, and Michael Walinskas, Senior Special Counsel, Division, Commission, on April 7, 1998.

⁷15 U.S.C. 78f.

⁸In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹15 U.S.C. 78f(b)(5).

¹⁰See note 4, *supra*.

¹15 U.S.C. 78s(b)(1).

²17 CFR 240.19b-4.

³See Securities Exchange Act Release No. 39583 (January 27, 1998) 63 FR 5829.

the order at the price of the electing transaction.

The Commission also believes that the proposed approach sets forth adequate objective criteria to guide the specialist's representation of the order. Although the execution of certain percentage orders, particularly percentage orders that have been converted by a specialist, present issues relating to the proper amount of discretion allowed to the specialist executing such orders, "Immediate Execution or Cancel Election" percentage orders do not raise such concerns. Specifically, a specialist must execute an "Immediate Execution or Cancel Election" percentage order at the instructed election price immediately upon the occurrence of a trade at the electing price or better, or treat the transaction as canceled.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-NYSE-97-38) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-9801 Filed 4-13-98; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0232]

Notice of Issuance of a Small Business Investment Company License

An application was filed by White River Partners, L.P., Indianapolis, Indiana 46219 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0232 on February 26, 1998 to White River Partners, L.P. to operate as a small business investment company.

The Licensee has initial committed capital of \$5,000,100, and Mr. Sam Sutphin and Marc DeLong will manage the fund. The capital of the Licensee is owned by two entity institutional

investors and two individual institutional investors. With the exception of the above entities, no one investor is expected to own more than 10% of the partnership.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 7, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98-9763 Filed 4-13-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST-95-246]

North American Free Trade Agreement's Land Transportation Standards Subcommittee and Transportation Consultative Group: Annual Plenary Session

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice (1) announces the fifth joint annual plenary session of the North American Free Trade Agreement's (NAFTA) Land Transportation Standards Subcommittee (LTSS) and the Transportation Consultative Group (TCG) and other related meetings; and (2) invites representatives of non-governmental entities with an interest in land transportation issues to participate in a listening session immediately preceding the plenary meeting and to attend a briefing at a later date. Only U.S., Canadian, and Mexican government officials may attend the plenary and working group meetings.

BACKGROUND: The Land Transportation Standards Subcommittee (LTSS) was established by the North American Free Trade Agreement's (NAFTA) Committee on Standards-Related Measures to examine the land transportation regulatory regimes in the United States, Canada, and Mexico, and to seek to make certain standards more compatible. The Transportation Consultative Group (TCG) was formed by the three countries' departments of transportation to address non-standards-related issues that affect cross-border movements among the countries, but that are not included in the NAFTA's LTSS work program.

MEETINGS AND DEADLINES: The fifth joint annual LTSS/TCG plenary session will be held from June 8 to 11, 1998, at the Delta Montreal Hotel, 475 President Kennedy Avenue, Montreal, Quebec, Canada, HRA 2T4. The following LTSS

working groups will meet during the same week and at the same location: (1) Compliance and Driver and Vehicle Standards; (2) Vehicle Weights and Dimensions; and (3) Hazardous Materials Transportation Standards. Similarly, the following TCG working groups are expected to meet: (1) Cross-Border Operations and Facilitation; (2) Rail Safety and Economic Issues; (3) Automated Data Exchange; (4) Science and Technology; and (5) Maritime and Ports Policy

Also at the same Montreal site, on June 8, 1998, from 2:00 p.m. to 6:00 p.m., a listening session will be held for representatives of the truck, bus, and rail industries, transportation labor unions, brokers and shippers, chemical manufacturers, insurance industry, public safety advocates, and others who have notified us of their interest to attend and have submitted copies of their presentations, in English and Spanish, to the address below by May 15. This is an opportunity for presenters to voice their concerns, provide technical information, and offer suggestions relevant to achieving greater standards compatibility and improving cross-border trade. While written statements may be of any length, oral presentations will be limited to 10 minutes per presenter. After May 15, statements may be submitted for the record, and requests to present oral comments at the listening session will be accommodated only on a time-available basis.

Although participation in the LTSS and TCG plenary and working group meetings is limited to government officials only, representatives of non-governmental entities also are invited to take part in parallel topical discussions, visits to transport facilities, and a final briefing by the heads of the U.S., Canadian, and Mexican delegations to be held on June 12.

Hotel reservations may be arranged by calling the Delta Montreal directly at (514) 286-1986 or 1-800-268-1133. In order to ensure that they receive the special group rate, callers must mention the group name "NAFTA 1998 Conference" and reserve before May 7, 1998.

A briefing to report on the outcome of the Montreal meetings will be conducted at DOT at the address below, in Room 8236-38, on June 30, from 10:00 a.m. to noon. Interested parties may notify DOT of their interest to attend this briefing by calling (202) 366-2892 by June 26.

SUPPLEMENTARY INFORMATION: LTSS-related documents, including working group reports and statements received

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).