

depends, in part, upon the individual credit of the issuer, Merrill Lynch. To some extent this credit risk is minimized by the NASD's listing standards in NASD Rule 4420(f), which provide that only issuers satisfying substantial asset and equity requirements may issue these types of hybrid securities. In addition, the NASD's hybrid listing standards further require that the Notes have at least \$4 million in market value. Financial information regarding Merrill Lynch, in addition to information concerning the issuers of the securities comprising the Index, will be publicly available.<sup>16</sup>

Third, the Notes will be registered under section 12 of the Act. As noted above, the NASD's and Nasdaq's existing equity trading rules will apply to the Notes, which will be subject to equity margin rules and will trade during the regular equity trading hours of 9:30 a.m. to 4:00 p.m. NASD Regulation's surveillance procedures for the Notes will be the same as its current surveillance procedures for equity securities, and will include additional monitoring on key pricing dates.

Fourth, the Commission has a systemic concern that a broker-dealer, such as Merrill Lynch, or a subsidiary providing a hedge for the issuer will incur position exposure. However, as the Commission has concluded in previous approval orders for other hybrid instruments issued by broker-dealers,<sup>17</sup> the Commission believes that this concern is minimal given the size of the Notes issuance in relation to the net worth of Merrill Lynch.

Finally, the Commission believes that the listing and trading of the proposed Notes should not unduly impact the market for the securities underlying the Index or raise manipulative concerns. The Commission notes that the Index is well-established and broad-based. In addition, the Commission continues to believe, as it has concluded previously, that the large capitalizations, liquid

markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index.<sup>18</sup> The Commission also believes that the weighting methodology for the Index should ensure that no one stock or group of stocks dominates the Index, and reduces the potential influence of any one stock on the movement of the Index.<sup>19</sup> In addition, Nasdaq's surveillance procedures should serve to deter as well as detect any potential manipulation.

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 the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. In addition, the Commission notes that it has previously approved the listing and trading of similar Enhanced Return Notes linked to the Nasdaq-100 Index.<sup>20</sup> Accordingly, the Commission believes that there is good cause, consistent with sections 15A(b)(6) and 19(b)(2) of the Act,<sup>21</sup> to approve the proposal on an accelerated basis.

The Commission is approving Nasdaq's proposed listing standards for the Notes. The Commission specifically notes that, notwithstanding approval of the listing standards for the Notes, other similarly structured products will require review by the Commission prior to being traded on Nasdaq.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-NASD-2002-19) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>22</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-3869 Filed 2-15-02; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45433; File No. SR-NYSE-2001-55]

### Self-Regulatory Organizations; the New York Stock Exchange, Inc.; Order Granting Approval To Proposed Rule Change To Amend NYSE Rule 51 Relating to Suspension of Trading

February 12, 2002.

On December 31, 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 51, Hours for Business, to make emergency procedures to halt or suspend trading or to close Exchange facilities more flexible and more responsive to the NYSE's current organizational structure and to the kinds of challenges that the Exchange may face. The proposal was published for comment in the **Federal Register** on January 11, 2002.<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> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>6</sup> in that the Rule is designed to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest, by providing the Exchange with more flexibility to respond appropriately and in a timely fashion to extraordinary circumstances that may require the suspension of trading at the NYSE, or the closing of some or all Exchange facilities.

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the

<sup>16</sup> The companies comprising the Index are reporting companies under the Act.

<sup>17</sup> See, e.g., Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving File No. SR-NASD-2001-73) (approving the listing and trading of notes issued by Morgan Stanley Dean Witter & Co. whose return is based on the performance of the Index); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving File No. SR-Amex-2001-40) (approving the listing and trading of notes issued by Merrill Lynch whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index); and 37744 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving File No. SR-Amex-96-27) (approving the listing and trading of notes issued by Merrill Lynch whose return is based on a weighted portfolio of healthcare/biotechnology industry securities).

<sup>18</sup> See Securities Exchange Act Release No. 33428 (January 5, 1994), 59 FR 1576 (January 11, 1994) (order approving File No. SR-CBOE-93-42) (approving the listing and trading of Index options on the Chicago Board Options Exchange).

<sup>19</sup> See Securities Exchange Act Release No. 40642 (November 5, 1998) 63 FR 63759 (November 16, 1998) (order approving File No. SR-CBOE-98-43).

<sup>20</sup> See *supra* note 11.

<sup>21</sup> 15 U.S.C. 78o-3(b)(6) and 78s(b)(2).

<sup>22</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 45249 (January 7, 2002), 67 FR 1529.

<sup>4</sup> In approving this proposed rule change, the Commission 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).

proposed rule change (SR-NYSE-2001-55) be, and it hereby is, approved.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-3867 Filed 2-15-02; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### Public Federal Regulatory Enforcement Fairness Hearing; Region VI Regulatory Fairness Board

The Small Business Administration Region VI Regulatory Fairness Board and the SBA Office of the National Ombudsman, will hold a Public Hearing on Monday, February 25, 2002 at 1:00 p.m. at the Wells Fargo Bank, Southeast & Southwest Rooms, 2nd Floor, 200 Lomas Boulevard NE, Albuquerque, New Mexico, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning the regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Susan Chavez in writing or by fax, in order to be put on the agenda. Susan Chavez, U.S. Small Business Administration, New Mexico District Office, 625 Silver Avenue S.W., Suite 320, Albuquerque, NM 87102, Phone (505) 346-6767 or (505) 346-6759, fax (505) 346-6711, e-mail: [Susan.Chavez@sba.gov](mailto:Susan.Chavez@sba.gov).

For more information see our website at <http://www.sba.gov/ombudsman/dsp—hearings.html>

Dated: February 12, 2002.

**Michael L. Barrera,**

*National Ombudsman.*

[FR Doc. 02-4011 Filed 2-15-02; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Complaint Forms Concerning Accessibility of Airline Service

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to

request the extension of a previously approved collection.

**DATES:** Comments on this notice must be received by April 22, 2002, and be sent to: Attention Blane A. Workie, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office).

**FOR FURTHER INFORMATION CONTACT:** Blane A. Workie, Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office), Room 4116, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9342.

#### SUPPLEMENTARY INFORMATION:

##### Office of the Secretary

*Title:* Complaint forms: Complaint Concerning Accessibility of Airline Service; Complaint Alleging Discrimination by an Airline Based on Race, Ethnicity, National Origin, Religion, Sex, or Sexual Orientation.

*OMB Number:* 2105-0543.

*Type of Request:* Extension of emergency approval of collection.

*Abstract:* The Department of Transportation's Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) and its Aviation Consumer Protection Division (ACPD) are requesting extension of a collection which received an emergency clearance approval from OMB on July 18, 2001, to continue displaying two types of complaint forms on the DOT internet site. The complaint forms provide information to make the public aware of their rights. One complaint form concerns accessibility problems experienced by passengers with disabilities and the other complaint form concerns alleged discrimination on the basis of race, ethnicity, national origin, religion, sex or sexual orientation.

Consumers voluntarily submit complaints to the Department regarding accessibility of airline service and alleged discrimination by an airline by completing the complaint forms, or by letter or email. Many consumers prefer completing the complaint forms to drafting a letter or email because it is easier and tends to take less time. The information collected from the complaint forms will be used by the Department of Transportation to institute an administrative action or investigation against an air carrier. An additional benefit of the complaint forms is that the forms specifically ask questions about the type of information that is needed to conduct an investigation.

*Respondents:* Airline Passengers.

*Estimated Number of Respondents:* 38.

*Estimated Total Burden on Respondents:* 19 hours.

*Affected Public:* Airline customers who file complaints alleging discrimination by the airline because of disability or based on race, ethnicity, national origin, religion, sex or sexual orientation.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC, on February 12, 2002.

**Samuel Podberesky,**

*Assistant General Counsel for Aviation Enforcement and Proceedings.*

[FR Doc. 02-3931 Filed 2-15-02; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary; Aviation Proceedings, Agreements Filed During the Week Ending February 1, 2002.

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

[Docket Number: OST-2002-11423]

*Date Filed:* January 28, 2002.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC COMP 0895 dated 29 January 2002, Mail Vote 197—Resolution 010z, Special Passenger Amending Resolution, Preface Notes to passenger fares tables, Intended effective date: 1 April 2002.

[Docket Number: OST-2002-11429]

*Date Filed:* January 29, 2002.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC3 0546 dated 29 January 2002, Mail Vote 196—Resolution 010y, TC3 Between Japan, Korea and South

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