

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 NYSE included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in item III below. The NYSE 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

On October 16, 2002, the NYSE filed with the Commission amendments to NYSE rule 450 ("Restrictions on Giving of Proxies"), rule 451 ("Transmission of Proxy Material"), rule 452 ("Giving Proxies by Member Organizations") and rule 465 ("Transmission of Interim Reports and Other Material") to allow authorized state-registered investment advisers to receive and vote proxy materials on behalf of beneficial owners.⁴ These amendments were approved by the Commission on March 6, 2003.⁵ In light of the fact that Listed Company Manual sections 402.06 and 402.10 restate portions of NYSE rules 450, 451, 452 and 465, the Exchange is proposing to amend the Listed Company Manual to conform to the NYSE rule amendments approved by the Commission. In addition, the NYSE has proposed minor amendments to conform the restatement of NYSE rule 452 in section 402.06 to the text of current NYSE rule 452.

2. Statutory Basis

The Exchange believes the basis under the Act for this proposed rule change is the requirement under section 6(b)(5)⁶ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, 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.

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 Exchange Act.

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

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amended proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 in the Commission's Public Reference Room. 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-2003-12 and should be submitted by June 17, 2003.

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

The Commission finds that the amended proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6(b)(5) of the Act.⁷ The Commission believes the NYSE Listed Company Manual should conform to the NYSE rules; differences between the two could lead to confusion and misunderstanding. The Commission also believes that the changes to the NYSE Listed Company Manual are consistent with the Act for the reasons discussed in the prior Approval Order.⁸

⁷ 15 U.S.C. 78f(b)(5).

⁸ See the Approval Order, *supra* note 5, discussing changes made to the NYSE rules. The

Therefore, the Commission finds that the amended proposal will promote just and equitable principles of trade, and, in general, protect investors and the public interest consistent with section 6(b)(5) of the Act.⁹

The NYSE has requested that the amended proposal be given accelerated approval pursuant to section 19(b)(2) of the Act.¹⁰ The Commission finds that good cause exists to grant accelerated approval to the proposal. The Commission notes that the proposed rule change is identical to amendments to the NYSE rules that were previously approved by the Commission after publication of notice thereof in the **Federal Register**.¹¹ Further, the Commission received one comment letter supporting the proposal in response to the publication.¹² Based on this, and the fact that the contents of the current proposal were subject to full notice and comment in the prior publication, the Commission finds there is good cause to accelerate approval of the proposal. Accordingly, the Commission finds good cause, consistent with sections 6(b)(5) and 19(b)(2) of the Act,¹³ to approve the amended proposal prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁴ that the amended proposal (SR-NYSE-2003-12) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-13134 Filed 5-23-03; 8:45 am]

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Commission hereby incorporates by reference the discussion contained therein.

⁹ 15 U.S.C. 78f(b)(5). 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).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ See *supra* notes 4 and 5.

¹² See letter from Christine A. Bruenn, NASSA President and Maine Securities Administrator, North American Securities Administrators Association, Inc., to Jonathan G. Katz, Secretary, Commission, dated February 18, 2003.

¹³ 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b)(2).

¹⁴ *Id.*

¹⁵ 17 CFR 200.30-3(a)(12).

⁴ See Securities Exchange Act Release No. 47215 (January 17, 2003), 68 FR 4263 (January 28, 2003) (SR-NYSE 2002-50).

⁵ See Securities Exchange Act Release No. 47458 (March 6, 2003), 68 FR 12131 (March 13, 2003) (SR-NYSE-2002-50) ("Approval Order").

⁶ 15 U.S.C. 78f(b)(5).