from certain provisions of Rules 10b–6 and 10b–13 (''Petition for Exemptive Relief'').[5] The proposed rule change contained in this 19b–4 filing would delete the requirement to ''give up the book'' in order to make Rule 460.20 compatible with the Exchange's Petition for Exemptive Relief.[6] Rule 10b–6 currently requires an ''affiliated purchaser'' (*i.e.*, the specialist organization that is associated with a broker-dealer participant in a distribution of a security in which the specialist organization is registered) to withdraw from the market during a certain period before and during the distribution.[7] The proposed relief would allow such a specialist organization to continue to make a market in such stocks during such period, provided that it has obtained an exemption from certain Exchange rules pursuant to Exchange Rule 98 and agrees to certain monitoring requirements.

Rule 98 affords exemptive relief for entities in a control relationship with a specialist organization from restrictions in NYSE Rules 104, 104.13, 105, 113.20, and 460.10 that would otherwise be applicable to such entities' transactions in securities in which the specialist organization is registered, or to business transactions with the issuers of such securities.[8] Pursuant to Rule 98 and the implementing guidelines promulgated thereunder, the specialist organization and the affiliated entity must be operated as separate and distinct organizations, and ''Chinese Wall'' procedures must be established that place substantial limits on access to, and communication of, trading information, including positions and strategies, between the two organizations. Rule 98 exemptive relief is conditioned on the organizations' receiving prior written approval from the Exchange, which conducts an annual review to ensure that all conditions for the exemption are being met.

The Exchange believes that the restrictions on the flow of information between the affiliated specialist and its approved person contained in Exchange Rule 98, along with the additional safeguards (such as transaction monitoring by the Exchange, the specialist and the approved person) contained in its Petition for Exemptive Relief, make it appropriate to amend Rule 460.20 to delete its requirement for such specialist to ''give up the book'' to an unaffiliated specialist during a distribution in which the approved person participates.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. 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, N.W., Washington, D.C. 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, N.W., Washington, D.C. 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–NYSE–95–21 and should be submitted by July 26, 1995.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16932 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35926; File No. SR–NYSE–95–24]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to an Extension of the Pilot for the Capital Utilization Measure of Specialist Performance

June 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, (''Act'')[1] and Rule 19b–4 thereunder,[2]

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available both the Exchange's petition and the Division's response to the petition. Any exemptive relief granted would supersede the relief previously granted by the Commission in *Letter regarding Application of Rules 10b–6 and 10b–13 to Specialists Affiliated with NYSE Member Firms*, (TP File No. 92–284) (Sept. 15, 1992).

[5] Rule 10b–13 under the Act, among other things, prohibits a person making a tender offer or exchange offer for any equity security from, directly or indirectly, purchasing or making any arrangement to purchase any such security (or any security that is immediately convertible or exchangeable for such security), otherwise than pursuant to the offer, from the time the offer is publicly announced until its expiration, including any extension thereof. Rule 10b–13 also applies to the dealer-manager of a tender offer because the dealer-manager acts as the agent of the bidder to facilitate the bidder's objectives. *See* 17 CFR 240.10b–13.

The Exchange is seeking relief from Rule 10b–13 to allow affiliated specialists to continue their market making functions in their respective specialty securities in connection with certain mergers or tender or exchange offers in which an affiliated broker-dealer is participating.

[6] The Exchange's proposal is to conform NYSE rules with the exemption to be granted separately by the Division in response to the Exchange's Petition for Exemptive Relief. Therefore, the approval of the proposed rule change is contingent upon the Division granting the requested exemptive relief.

[7] Absent an exemption from or exception to Rule 10b–6, Exchange specialists that are affiliated with a person participating in a distribution of securities would be precluded from bidding for or purchasing such securities, any security of the same class and series as those securities, or any related securities.

[8] See NYSE Rule 104 (limiting a specialist's ability to effect purchases and sales regarding affiliated entities); NYSE Rule 104.13 (requiring that certain transactions be effected only for investment purposes); NYSE Rule 105 (limiting a specialist's interests in pools and options); NYSE Rule 113.20 (prohibiting a specialist from ''popularizing'' any security in which it is registered); NYSE Rule 460.10 (prohibiting control relationships, business transactions, and finder's fees between the issuer and the specialist).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

notice is hereby given that on June 22, 1995, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of extending the capital utilization pilot through September 10, 1996. The capital utilization measure focuses on a specialist unit's use of its own capital in relation to the total dollar volume of trading activity in the unit's stocks. This capital utilization measure would continue to be used by the Allocation Committee (''Committee'') in allocating newly-listed stocks.[3]

The Exchange requests the Commission to find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.

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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below and is set forth in Sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In recognition of the importance of dealer participation, particularly in volatile markets when such participation is viewed as providing ''value added'' in maintaining fair and orderly markets, the Exchange has developed a measure of specialist performance dealing with utilization of capital for marketmaking. This measure of performance focuses on a specialist unit's use of its own capital in relation to the total dollar value of trading activity in the unit's stocks.

Under the pilot, a capital utilization percentage is derived for each eligible stock[4] and the specialist unit overall by dividing the average daily dollar value of the unit's stabilizing purchases and sales by the average daily total dollar value of shares traded in the unit's stocks. This percentage is calculated both for stabilizing trades only and stabilizing plus reliquefying trades. (A reliquefying transaction is one in which the specialist reduces a position in a specialty stock by selling part of a long position on a zero-minus tick, or purchasing to cover part of a short position on a zero-plus tick.) These percentages are provided for base periods (*i.e.*, non-volatile periods) and volatile periods (days when there is a change of one percent or more in the S&P 500 Stock Price Index),[5] and each stock's ten percent most volatile days,[6] so that performance of a unit relative to other units can be compared as to volatile and non-volatile market conditions.

The capital utilization measure separates stocks into three broad groupings including:

- Stocks included in the top 200 stocks in the S&P 500 Stock Price Index and other stocks that are at least as active (based on average daily dollar value of shares traded)
- The remainder of the S&P 500 and any stocks among the 500 most active on the Exchange
- All other stocks

Specialist units are placed alphabetically into three tiers based on their base day and volatile day capital utilization percentages for each of the three groupings of stocks. Within each grouping, a Floor-wide mean capital utilization percentage is calculated. A unit will be in Tier 1 if its capital utilization percentage is more than 1.1 standard deviations above the mean. (A standard deviation is a statistical measure of the distance from the mean.) A unit will be in Tier 2 if its capital utilization percentage is within 1.1 standard deviations above or below the mean. A unit will be in Tier 3 if its capital utilization percentage is more than 1.1 standard deviations below the mean.

During the past year, the Allocation Committee has received specialist capital utilization information on a ''rolling'' 12-month basis.[7] The Allocation Committee has been given information as to a unit's tier in each stock grouping, with the tier data being included with other objective data, such as DOT turnaround performance, stabilization rates and TTV percentages. The specialist units themselves have been given, on a monthly basis for the prior 12 months, their actual capital utilization percentages for each stock.[8]

The Commission previously approved the Exchange's proposed rule change to adopt capital utilization as an additional measure of specialist performance to be considered by the Allocation Committee, first on a one-year pilot

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[3] The Exchange's Allocation Policy and Procedures governs the allocation of equity securities to NYSE specialist units. The Allocation Committee has sole responsibility for the allocation of securities to specialist units pursuant to Board-delegated authority, and is overseen by the Quality of Markets Committee of the Board of Directors. The Allocation Committee renders decisions based upon the allocation criteria specified in the Allocation Policy. The Allocation Policy emphasizes that the most significant allocation criterion is specialist performance. In this regard, the Allocation Policy states that the Allocation Committee will base its allocation decisions on the Specialist Performance Evaluation Questionnaire (''SPEQ''), objective performance measures, and the Committee's expert professional judgment. *See also* note 17, *infra*.

[4] The following are not included in any grouping of eligible stocks: foreign stocks, preferred stocks, warrants, when-issued stocks, IPOs (for the first 60 days), closed-end funds, stocks selling for $5 and under, and stocks with less than 2000 shares average daily trading volume. In Securities Exchange Act Release No. 35927 (June 30, 1995) the Commission approved an amendment to the capital utilization pilot that also excludes stocks with two classes of shares (*e.g.*, Class A and Class B), merger/acquisition stocks if there was a significant impact on the price or volume, and stocks that have been delisted for more than half of the examination period. In addition, the amendment to the pilot reduced the review period in which capital utilization is measured from a rolling 12 months to a rolling three months.

[5] ''S&P 500 Stock Price Index'' is a service mark of Standard and Poor's Corporation.

The base period calculation includes the total average daily dollar value for the trading days within the three month period excluding those days during which there was a change of 1% or more in the S&P 500 Price Index. The volatile period calculation includes the total average daily dollar value for the trading days within the three month period during which there was a change of 1% or more in the S&P 500 Price Index.

[6] The base period calculation includes the total average daily dollar value for the days within the three month trading period that were not among the 10% most volatile. The volatile period calculation includes the average daily dollar value for the days within the three month period that were the 10% most volatile.

[7] This has been changed to a rolling three months. *See supra* note 4.

[8] The specialist capital utilization measure is not being added as a basis for initiating a Performance Improvement Action under NYSE Rule 103A. *See infra* note 11. During the pilot period, the Market Performance Committee will receive quarterly reports on the initiative, with a view toward their recommending such enhancements or modifications as may seem appropriate based on actual experience with this measure. Any modifications or enhancements would be filed with the Commission, and would be implemented only with the Commission's approval.

basis [9] and then for an additional six months through June 30, 1995.[10] In its July 25, 1994, report on the Allocation and Capital Utilization pilots, the Exchange reviewed the Committee's use of the capital utilization measure in allocation decisions. The measure appears to be a useful addition to the other measures of specialist performance referred to by the Committee. The Exchange is now seeking to extend that pilot to run concurrently with the pilot for Rule 103A[11] and the pilot for the ''near neighbor'' technique of measuring specialist performance.[12]

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed 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 Act.

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

The Exchange has neither solicited nor received written comments on 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 other 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 Section, 450 Fifth Street NW., Washington, DC.

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–95–24, and should be submitted by August 1, 1995.

IV. Commission's Findings and Order Granting 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)(5) of the Act.[13] Section 6(b)(5) requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act [14] and Rule 11b–1 thereunder,[15] which allow exchanges to promulgate rules relating to specialists to ensure fair and orderly markets. For the reasons set forth below, the Commission continues to believe that the consideration of specialist capital utilization by the Allocation Committee should enhance the Exchange's allocation process and encourage improved specialist performance, consistent with the protection of investors and the public interest.

Specialists play a crucial role in providing stability, liquidity and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and rules thereunder, is the maintenance of fair and orderly markets in designated securities.[16] To ensure that specialists fulfill these obligations, it is important that the Exchange develop objective measures of specialist performance and prescribe stock allocation procedures and policies that encourage specialists to strive for optimal performance. The Commission supports the NYSE's effort to develop an objective measure of specialist capital utilization to encourage improved specialist performance and market quality.[17]

The Commission believes that extending the pilot period for the specialist capital utilization is appropriate because the Exchange indicates that it has found the measure useful in providing the NYSE Allocation Committee with an objective measure of specialist performance. The NYSE's Allocation Policy emphasizes that the most significant allocation criterion is specialist performance.[18] In the Commission's view, performance based stock allocations not only help to ensure that stocks are allocated to specialists who will make the best markets, but will provide an incentive for specialists to improve their performance or maintain superior performance.

For these reasons and for the other reasons discussed in Release No. 33369,[19] the Commission has determined to extend the pilot period for this measure through September 10, 1996. The Commission believes that extending the pilot period is appropriate because it will provide the Exchange and the Commission with an opportunity to further study the effects of the use of the measure on the NYSE's allocation process and will permit the

[9] *See* Securities Exchange Act Release No. 33369 (December 22, 1993), 58 FR 69431 (December 30, 1993).

[10] *See* Securities Exchange Act Release No. 35175 (December 29, 1994), 60 FR 2167 (January 6, 1995).

[11] *See* Securities Exchange Act Release No. 35704 (May 10, 1995), 60 FR 26060 (May 16, 1995). Rule 103A grants authority to the Exchange's Market Performance Committee to develop and administer systems and procedures, including the determination of appropriate standards and measurements of performance, designed to measure specialist performance and market quality on a periodic basis to determine whether or not particular specialist units need to take actions to improve their performance. The Commission emphasized in the extension order its belief that objective measures of specialist performance should be incorporated into the evaluation process. The Commission believes that the Exchange should have sufficient experience with the capital utilization and near neighbor measures of specialist performance at the end of the pilot period to judge whether these objective measures should be incorporated into the Rule 103A evaluation criteria.

[12] The near neighbor approach to evaluating specialist performance compares the performance in a stock over rolling three-month periods to the performance of stocks with similar trading characteristics. This objective measure of specialist performance will only be used, at this time, by the Allocation Committee in its decision making process. *See supra* note 3. The Commission approved the near neighbor pilot in Securities Exchange Act Release No. 35927 (June 30, 1995).

[13] 15 U.S.C. 78f(b)(5) (1988).

[14] 15 U.S.C. 78k(b) (1988).

[15] 17 CFR 240.11b–1 (1994).

[16] *See, e.g.*, 17 CFR 240.11b–1 (1994); NYSE Rule 104.

[17] The Commission also has approved an NYSE proposal to reduce the weight given in the allocation decision making process to the Specialist Performance Evaluation Questionnaire from ⅓ to ¼ in recognition of the Exchange's adoption of the near neighbor and capital utilization objective measures of special performance. *See* Securities Exchange Act Release No. 35932 (June 30, 1995).

[18] *See, e.g.*, Commission's order approving revisions to the NYSE's Allocation Policy and Procedures, Securities Exchange Act Release No. 34906 (October 27, 1994), 59 FR 55142.

[19] *See supra* note 9.

measure to run concurrently with the Rule 103A and near neighbor pilots. During the pilot period, the Commission continues to expect the NYSE to monitor carefully the effects of the near neighbor and capital utilization programs and report its findings to the Commission. Specifically, the Commission requests that the NYSE report the near neighbor and capital utilization data as presented to the Allocation Committee. In addition, the Exchange should, for a three month sample period,[20] submit a report that identifies the specialist units, the securities for which they applied, the stocks that were allocated to them, and the specialist units' SPEQ ratings as presented to the Allocation Committee.[21] In the report, the Exchange should identify allocations that were made to specialist units with relatively poor tier ratings in the objective measures and discuss the reasons the Allocation Committee made such allocations.[22]

The Commission finds good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the thirtieth day after publication of the proposed rule change in the **Federal Register**. Accelerated approval will enable the Exchange to continue to make use of the capital utilization measure of specialist performance on an uninterrupted basis and will ensure continuity and consistency in the stock allocation deliberation process. In addition, interested persons were invited to comment on the past proposal to extend the effectiveness of the measure.[23] The Commission received no comments on this proposal.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (File No. SR–NYSE–95–24) be approved through September 10, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16917 Filed 7–10–95; 8:45 am]

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[20] This sample period shall be January 1, 1996, through March 31, 1996.

[21] The Commission believes that this information will allow it to evaluate the extent to which the Allocation Committee's decisions appear consistent with the relative performance of specialist units according to the objective measures. In this regard, however, the Commission recognizes that the Allocation Committee also considers the SPEQ results and may use its professional judgment in making allocation decisions. *See supra* notes 3 and 17.

[22] The Exchange may submit one report for both the near neighbor and capital utilization pilots. This report should be submitted to the Commission by May 15, 1996, along with the Exchange's request for permanent approval or extension of the pilot programs.

[23] *See* Release No. 35175, *supra* note 10.

[24] 15 U.S.C. 78s(b)(2) (1988).

[25] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35932; File No. SR–NYSE–95–06]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Amendment of the Exchange's Allocation Policy and Procedures

June 30, 1995.

On February 28, 1995, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''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 the Exchange's Allocation Policy and Procedures (''Allocation Policy'').

The proposed rule change was published for comment in Securities Exchange Act Release No. 35662 (May 2, 1995), 60 FR 22596 (May 8, 1995). No comments were received on the proposal.

The NYSE Allocation Policy governs the allocation of equity securities to NYSE specialist units.[3] The intent of the Allocation Policy is to ensure that each equity security listed on the Exchange is allocated in the fairest manner possible to the best specialist unit for that security. In October 1994, the Commission permanently approved amendments to the Allocation Policy that revised, among other things, the allocation criteria, the composition of the Allocation Committee[4] and Allocation Panel,[5] and the Committee's disclosure policy.

The Allocation Policy emphasizes that the most significant allocation criterion is specialist performance. In this regard, the Allocation Policy specifies that the Committee will base its allocation decisions on the Specialist Performance Evaluation Questionnaire (''SPEQ),[6] objective performance measures, and the Committee's expert professional judgment in considering the SPEQ, objective measures, and other criteria.[7] The NYSE's current objective performance measures include: timeliness of regular openings, promptness in seeking floor official approval of a non-regulatory delayed opening, timeliness of DOT turnaround and response to administrative messages, a specialist's TTV[8] and stabilization rates,[9] and such other measures as may be adopted (and which are approved by the Commission pursuant to Section 19(b) of the Act). In addition, the NYSE has adopted two pilot programs, the capital utilization[10]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] The NYSE Allocation Policy applies to the allocation of equity securities under the following circumstances: (1) when an equity security is to be initially listed on the NYSE; (2) when an equity security is to be reallocated as a result of disciplinary or other proceedings under NYSE Rules 103A, 475, or 476; or (3) when a specialist unit voluntarily surrenders its registration in a security as a result of possible disciplinary or performance improvement actions.

[4] Under the Allocation Policy, the NYSE Allocation Committee has sole responsibility for the allocation of securities to specialist units pursuant to Board-delegated authority, and is overseen by the Quality of Markets Committee of the Board of Directors. The Allocation Committee renders decisions based upon the allocation criteria specified in the Allocation Policy.

[5] The composition of the Allocation Panel reflects the Committee structure and includes floor brokers, allied members, and floor broker Governors. The Panel comprises the pool of individuals from which the Committee is formed. The Panel members are selected through an annual appointment process that utilizes input from the membership. Panel members are appointed to serve a one-year term; Governors, however, remain on the Panel for as long as they are Governors. The Exchange has proposed to amend the structure of the Allocation Panel to include Senior Floor Officials. *See* Securities Exchange Act Release No. 35776 (May 30, 1995), 60 FR 30135 (June 7, 1995).

[6] The SPEQ is a quarterly survey on specialist performance completed by eligible floor brokers (*i.e.,* any floor broker with at least one year of experience). The SPEQ consists of 21 questions and requires floor brokers to rate, and provide written comments on, the performance of specialist units with whom they deal frequently.

[7] The Allocation Policy specifies that the other criteria that the Allocation Committee may consider in exercising its professional judgment are: listing company input, allocations received by the unit, capital available for market making, listing company input, disciplinary actions and justifiable complaints against the specialist unit, and foreign listing considerations.

[8] TTV percentage is computed by totaling all purchases and sales by the specialist and determining what percentage this share volume is of the security's twice total volume.

[9] The stabilization rate represents the percentage of specialist transactions which were stabilizing (buying as the price declined and selling as it rose).

[10] The specialist capital utilization program measures the dollar value of a specialist's proprietary trading in relation to the total dollar value of shares traded in the specialist's stocks. The Commission approved the capital utilization measure on a one-year pilot basis in Securities Exchange Act Release No. 33369 (December 23, 1993), 58 FR 69431 (December 30, 1993). The Commission approved a six-month extension to the pilot program in Securities Exchange Act Release No. 35175 (December 29, 1994), 60 FR 2167 (January 6, 1995) (extending pilot through June 30 1995). The Commission has extended the capital

Continued