

bring the position into compliance.<sup>38</sup> Failure to abide by this provision will be deemed to be a violation of Exchange Rules 4.11 and 24.4.<sup>39</sup>

Lastly, violation of any of the provisions of Exchange Rule 24.4 and the interpretations and policies thereunder, absent reasonable justification or excuse, will result in the withdrawal of the index hedge exemption and may form the basis for subsequent denial of an application for an index hedge exemption.<sup>40</sup>

Accordingly, the Commission continues to believe that the safeguards built into the index hedge exemptive process will serve to minimize the potential for disruption and manipulation, while at the same time benefiting market participants. The Commission also believes that the CBOE's surveillance procedures are sufficient to detect and deter trading abuses arising from the increased position and exercise limits associated with the increased index hedge exemption. Based on these reasons, the Commission believes that it is appropriate to increase OEX index hedge exemption to 300,000 contracts.<sup>41</sup>

The Commission finds good cause for approving proposed Amendment Nos. 1, 2, 3, and 4 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that Amendment No. 1 further clarifies the rationale underlying the Exchange's filing seeking increases in the OEX position and exercise limits. Amendment No. 1 also provides updated reporting requirements submitted at the request of Commission staff. With the exception of the proposed deletion of Interpretation .04 to Exchange Rule 24.4, the Commission believes that Amendment No. 1 raises no new regulatory issues. Regarding Interpretation .04 to

Exchange Rule 24.4, the Commission notes that Amendment No. 2 restores this provision, in a slightly revised form, to the CBOE's rules. As Amendment No. 2 merely reinstates this provision and updates the CBOE's reporting requirements to reflect the CBOE's request to double the OEX position and exercise limits in connection with the "split" of the underlying Index, the Commission believes that Amendment No. 2 raises no issues of regulatory concern. The Commission notes that Amendment No. 3 simply modifies the OEX position and exercise limits sought by the CBOE to reflect the Commission's recent approval of the Exchange's "split" of the underlying Index.<sup>42</sup> The Commission further notes that by increasing the "trigger" for reporting requirements from 45,000 contracts to 65,000 contracts, Amendment No. 4 merely provides consistency with the reporting requirement procedures and the margin requirement trigger level proposed in Amendment No. 2. Finally, the Commission notes that no comments were received on the publication of the original proposal and the increases being approved herein are equivalent on a dollar basis to those originally proposed. Accordingly, the Commission believes that there is good cause, consistent with Section 6(b)(5) of the Act,<sup>43</sup> to approve Amendment Nos. 1, 2, 3, and 4 to CBOE's proposed rule change on an accelerated basis.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, 3, and 4. 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 in 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 CBOE. All submissions

should refer to File No. SR-CBOE-97-11 and should be submitted by January 26, 1998.

#### V. Conclusion

For the foregoing reasons, the Commission finds that the CBOE's proposal, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>44</sup> that the proposed rule change (SR-CBOE-97-11), including Amendment Nos. 1, 2, 3, and 4, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>45</sup>

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 98-45 Filed 1-2-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39488; File No. SR-MSRB-97-11]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating To Fee for Copies of Form G-37/G-38 in Computer CD-ROM Format

December 23, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1997, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-97-11), to establish fees for copies of Form G-37/G-38 in computer CD-ROM format. The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. 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 Board is filing herewith a proposed rule change to establish a fee relating to the public dissemination, in computer CD-ROM format, of copies of Form G-37/G-38 submitted to the Board in each calendar quarter pursuant to

<sup>38</sup> See Interpretation .02(c) to Exchange Rule 24.4.

<sup>39</sup> *Id.*

<sup>40</sup> See Interpretation .02(d) to Exchange Rule 24.4. The hedge exemption account also must: (i) liquidate and establish options, stock positions or their equivalent, or other qualified portfolio products in an orderly fashion; (ii) not initiate or liquidate positions in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes; (iii) not initiate or liquidate a stock position or its equivalent with an equivalent index option position with a view toward taking advantage of any differential in price between a group of securities and an overlying stock index; and (iv) liquidate any options prior to, or contemporaneously with, a decrease in the hedge value of the qualified portfolio, which options would thereby be rendered excessive. See Interpretations .01(g)(1) and .01(g)(2) to Exchange Rule 24.4.

<sup>41</sup> The Commission notes that the OEX index hedge exemption is in addition to the standard limit and other exemptions available under Exchange rules, interpretations, and policies.

<sup>42</sup> See note 6, *supra*.

<sup>43</sup> 15 U.S.C. 78f(b)(5).

<sup>44</sup> 15 U.S.C. 78s(b)(2).

<sup>45</sup> 17 CFR 200.30-3(a)(12).

rule G-37, on political contributions and prohibitions on municipal securities business, and rule G-38, on consultants. The Board is establishing a price of \$10.00 (plus delivery or postage charges and any applicable sales tax) for each CD-ROM containing copies of Form G-37/G-38 and a price of \$11.50 (plus delivery or postage charges and any applicable sales tax) for each such CD-ROM that is bundled with a CD-ROM containing the software necessary to access and read the forms.

## 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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section 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

Rule G-37, on political contributions and prohibitions on municipal securities business, and rule G-38, on consultants, require brokers, dealers and municipal securities dealers ("dealers") to send two copies of Form G-37/G-38 to the Board for each calendar quarter. The Board currently maintains one copy of each Form G-37/G-38 at its Public Access Facility in Alexandria, Virginia<sup>1</sup>, where it is available to the public for review and photocopying.<sup>2</sup> The Board has previously stated its intention to seek to expand the access and services available to the public with respect to these forms.<sup>3</sup> The Board has begun posting copies of Form G-37/G-38 sent to the Board in recent quarters on the Boards Internet Web site (<http://www.msrb.org>), where members of the public may download such forms to their computers for review and printing. The Board does not currently charge a fee for such access.

In furtherance of the Board's stated intention of expanding access to Forms

G-37/G-38, the Board will make Forms G-37/G-38 available to the public in computer CD-ROM format. The Board has successfully conducted testing with the writing of all second quarter 1997 and third quarter 1997 Forms G-37/G-38 received by the Board to computer CD-ROM in a format that will permit reading and printing using a commercially available document reader software program.<sup>4</sup> The Board expects to produce one or more CD-ROMs each quarter containing all Forms G-37/G-38 received from dealers for the preceding quarter.

The Board is establishing a price of \$10.00 (plus delivery or postage charges and any applicable sales tax) for each CD-ROM containing copies of Form G-37/G-38 and a price of \$11.50 (plus delivery or postage charges and any applicable sales tax) for each CD-ROM that is bundled with a CD-ROM containing the software necessary to access and read the forms on a computer.<sup>5</sup> The Board proposes to establish these CD-ROM fees to defray its cost of producing and disseminating the materials. This is consistent with the Commission's policy that self-regulatory organizations' fees be based on expenses incurred in providing information to the public. The Board believes that employing cost-based prices is in the public interest since it will ensure that a complete collection of vital information will be available at fair and reasonable prices, in furtherance of the objectives of rules G-37 and G-38.

#### 2. Basis

The Board believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which requires, in pertinent part, that the Board's rules shall:

\* \* \* be designed to prevent fraudulent and manipulative acts and practices, 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

<sup>4</sup> The Board will be using Adobe Acrobat Reader, which currently is available free of charge on the Internet and available at a nominal cost on CD-ROM. The Board reserves the right to format its CD-ROM Form G-37/G-38 files for use with other software programs in the future.

<sup>5</sup> Once a user acquires a copy of the document reader software program, either in a one-time purchase from the Board bundled with a Form G-37/G-38 CD-ROM or from other commercially available sources, such user would not need to make future purchases from the Board of the higher-priced bundled package.

The Board believes that making Forms G-37/G-38 more widely available to the public on computer CD-ROM format will further the purpose and intent of rules G-37 and G-38 to ensure that the high standards and integrity of the municipal securities industry are maintained, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to perfect a free and open market and to protect investors and the public interest. The Board believes that the fees established for the CD-ROM materials are fair and reasonable in light of the costs associated with disseminating the information, and such materials will be available on reasonable and nondiscriminatory terms to any interested person.

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

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since the fees will apply equally to all persons.

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

Written comments were neither solicited nor received.

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

The rule change is effective upon filing pursuant to Section 91(b)(3)(A) of the Act because the proposal is "establishing or changing a due, fee or other charge." At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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

<sup>1</sup> The Board's Public Access Facility is located at 1640 King Street, Suite 300, Alexandria, Virginia 22314. Documents may be viewed from 9:00 a.m. to 4:30 p.m.

<sup>2</sup> The second copy of Form G-37/G-38 is maintained off-site for back-up purposes.

<sup>3</sup> File No. SR-MSRB-94-4 at page 2.

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 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-97-11 and should be submitted by January 26, 1998.

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

**Jonathan G. Katz,**

Secretary.

[FR Doc. 98-46 Filed 1-2-98; 8:45 am]

BILLING CODE 8010-01-M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Implementation of Tariff-Rate Quota for Imports of Beef

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** The Office of the United States Trade Representative, (USTR) is providing notice that USTR has determined that New Zealand, pursuant to its request, is a participating country for purposes of the export certification program for imports of beef under the tariff-rate quota.

**DATES:** The action is effective January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Early, Senior Policy Advisory for Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street NW, Washington, DC 20508; telephone: (202) 395-9615.

**SUPPLEMENTARY INFORMATION:** The United States maintains a tariff-rate quota on imports of beef as part of its implementation of the Marrakesh Agreement Establishing the World Trade Organization. The in-quota quantity of that tariff-rate quota is allocated in part among a number of countries. As part of the administration of that tariff-rate quota, USTR provided, in 15 CFR part 2012, for the use of export certificates with respect to imports of beef from countries that have an allocation of the in-quota quantity. The export certificates apply only to those countries that USTR determines are participating countries for purposes of 15 CFR part 2012.

On December 19, 1997, USTR received a request and the necessary

supporting information from the government of New Zealand to be considered as a participating country for purposes of the export certification program. Accordingly, USTR has determined that, effective January 1, 1998, New Zealand is a participating country for purposes of 15 CFR part 2012. As a result, effective on or after January 1, 1998, imports of beef from New Zealand will need to be accompanied by an export certificate in order to qualify for the in-quota tariff rate. Imports exported prior to January 1, 1998, including exports currently warehoused, will not require a certificate. In order for the export certificate to be valid, it has to be used in the calendar year for which it is in effect.

**Charlene Barshefsky,**

United States Trade Representative.

[FR Doc. 97-34235 Filed 12-31-97; 9:11 am]

BILLING CODE 3190-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Funds Availability for High Speed Non-Electric Passenger Locomotive Demonstration Program

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of funds availability.

**SUMMARY:** FRA announces the availability of \$3,000,000 in fiscal year 1998 to initiate the development and demonstration of a prototype, high-speed, non-electric passenger locomotive. Thereafter, depending upon appropriations in future years, up to an additional \$17,000,000 may be available for this program.

#### Authority

The authority for this program is contained in the Department of Transportation and Related Agencies Appropriations Act for fiscal year 1998 (Pub.L. 105-66), dated October 27, 1997.

#### Eligible Participants

Only existing locomotive manufacturers with experience producing locomotives in revenue service in North America shall be considered as eligible applicants for this Federal assistance program. It is expected that this project will be awarded as a cooperative agreement. Other entities wishing to participate may subcontract with a qualified locomotive manufacturer/applicant.

### Submission of Applications

Five (5) copies of each application should be submitted by February 27, 1998 to the following address: Robert L. Carpenter, Office of Acquisition & Grants Services, Federal Railroad Administration, Mail Stop 50, 400 7th St. S.W., Washington, DC 20590.

### Points of Contact

*Technical questions regarding this solicitation may be directed to:* Robert J. McCown, Director, Technology Development, Federal Railroad Administration, Mail Stop 20, 400 7th St. S.W., Washington, DC 20590, TEL 202-632-3250, FAX 202-632-3854.

*Requests for forms and administrative questions regarding this solicitation may be directed to:* Robert L. Carpenter, Office of Acquisition & Grants Services, Federal Railroad Administration, Mail Stop 50, 400 7th St. S.W., Washington, DC 20590, TEL 202-632-3236, FAX 202-632-3846.

### Purpose

FRA is seeking a qualified locomotive manufacturer to demonstrate an advanced technology high-speed non-electric locomotive capable of 125 mph sustained operations with the goal of ultimately being capable of 150 mph operations with acceleration characteristics approaching or equal to current high-speed electric locomotives. The locomotive shall also be capable of demonstrating enhanced performance using the energy storage element of the flywheel developed by the Advanced Locomotive Propulsion System (ALPS) project. As part of the Next Generation High Speed Rail Program, FRA has identified three critical technology areas where improved performance or reduced cost could enhance the viability of high-speed passenger rail service based on incremental improvements to existing rail infrastructure. These are non-electric locomotives, grade crossing risk mitigation, and advanced train control systems.

The development of lightweight, high power, non-electric motive power is critical to the introduction of passenger service at speeds above 90 mph in the United States. The cost of electrification is relatively expensive in all but the most densely utilized corridors. Further, locomotives based primarily on designs appropriate for freight applications are not practical for speeds above 100 mph, due to poor acceleration capability and weight, particularly unsprung mass, which is incompatible with sustained use on typical track structures because of the large forces generated at high speeds. For operations in territories