

aggregate may not exceed the number of shares required to rebalance an index portfolio.

The Exchange believes the proposed exceptions in paragraphs (b)(5) and (b)(6) to facilitate certain customer transactions are appropriate because these types of transactions are effected to accommodate a customer. The Exchange further believes the proposed exception in paragraph (b)(7) for additions to, or increased weigh in, an index is appropriate because such purchases are usually made at the close of trading to obtain the closing price of the index and therefore are indifferent to the price level so long as it represents the closing valuation.

The proposal also would expand the Rule's Supplementary Material, Section .10, "Definitions," to provide definitions for the terms "basket" and "index," which terms are used in proposed paragraphs (b)(5), (b)(6), and (b)(7). The term "basket" would be defined as a group of 15 or more stocks having a total market value of \$1 million or more. The Exchange has represented that this definition is consistent with the use of "basket" in the definition of program trading that appears in Exchange Rule 80A. The proposal would define "index" as a publicly disseminated statistical composite measure based on the price or market value of the component stocks in a group of stocks. The Exchange believes this definition would preclude the possibility of a firm creating an "index" for the purpose of circumventing the restrictions of the Rule.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>3</sup> in that it is designed to facilitate transactions in securities, and remove impediment to and perfect the mechanism of a free and open market. The Exchange believes the proposed rule change would permit trading by member organizations, when appropriate, to facilitate customer trading, and would thereby add depth, liquidity, and quality to the market for Exchange-traded securities.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer 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 Exchange 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, including whether the proposed rule change is consistent with the Act. 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 submissions, 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 persons, 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 in 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-98-11 and should be submitted by June 9, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-M**

## **DEPARTMENT OF TRANSPORTATION**

### **Office of the Secretary**

#### **Application of Servant Air, Inc. for New Certificate Authority**

**AGENCY:** Department of Transportation.

**ACTION:** Notice of order to show cause (Order 98-5-21) Docket OST-97-3022.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Servant Air, Inc., fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail, using aircraft with no more than nine passenger seats.

**DATES:** Persons wishing to file objections should do so no later than June 2, 1998.

**ADDRESSES:** Objections and answers to objections should be filed in Docket OST-97-3022 and addressed to the Department of Transportation Dockets SVC-124.1, Room PL-401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2337.

Dated: May 13, 1998.

**Charles A. Hunnicutt,**

*Assistant Secretary for Aviation and International Affairs.*

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**BILLING CODE 4910-62-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **FAA Approval of Noise Compatibility Program and Determination on Revised Noise Exposure Maps**

**AGENCY:** Federal Aviation Administration.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its findings on a new noise compatibility program for Charlotte/Douglas International Airport submitted by the City of Charlotte, North Carolina, under the provisions of Title I of the Aviation Safety and Noise Abatement act of 1979

<sup>3</sup> 15 U.S.C. 78f(b)(5).

<sup>4</sup> 17 CFR 200.30-3(a)(12).