

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42990; File No. SR-NYSE-00-28]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Rule 37

June 28, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 16, 2000 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, II, and III below, which Items have been prepared by the Exchange. 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 NYSE proposes to amend the text of Rule 37 (Visitors) to expand the category of officials authorized to allow visitors access to the Exchange Trading Floor.

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 exchange 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 IV below. The Exchange 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

NYSE rule 37 prescribes who is authorized to permit visitor admission to the Trading Floor of the Exchange ("Floor"). The proposed amendment to NYSE Rule 37 is designed to expand the categories of officials authorized to allow visitors access to the Floor.

According to the current NYSE Rule 37, authority to allow visitors access to the Floor is vested only in an "Officer of the Exchange." The proposed amendments would extend this authority to three Floor Official designations: Floor Directors, Floor Governors, and Senior Floor Officials between the hours of 10 a.m. and 3:30 p.m. The NYSE believes that broadening authority in this way will result in a more flexible and efficient Floor visitation system. However, during the time period between 9 a.m. to 10 a.m. (30 minutes before and after the opening), and 30 minutes prior to closing the proposed amendments to the NYSE Rule 37 would require that the approval of an Exchange Officer or a Floor Director (or Senior Floor Official or Floor Governor in the absence of a Floor Director) for visitors to be admitted to the Floor. Special attention is accorded these intervals given that they are often the focus of heightened trading activity.

In general, Floor Officials are members of the Exchange who are appointed as Floor Officials. Floor officials provide interpretive advice on auction market procedures and the Exchange's rules and regulations. They play a significant role in handling unusual market situations so that trading may be conducted in a fair and orderly manner. Each Director of the Exchange's Board of Directors who is active on the Floor is appointed as a Floor Official. These Directors are known as Floor Directors. Floor Governors are members who are designated by the Chairman of the Board. They are empowered to perform any duty, make any decision, or take any action assigned to or required of a Floor Director, as prescribed by the Rules of the Board. Senior Floor Officials are former Floor Directors or Floor Governors and are appointed by virtue of their experience.

Exchange policy pursuant to NYSE Rule 37, as reflected in The Floor Conduct and Safety Guidelines, will be amended to conform to these changes in a separate filing.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b) of the Act³ in general, and furthers the objectives of Section 6(6)(5)⁴ in particular, in that it is designed to facilitate transactions in securities and remove impediments to and perfect the mechanism of a free and open market. The amendments to NYSE Rule 37 support these goals by promoting the efficient, undisrupted conduct on the floor.

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

The NYSE represents that it does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance 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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁵ and Rule 19b-4(f)(3)⁶ thereunder because the Exchange represents that it is concerned solely within the administration of the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the proposed 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 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, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

⁶ 17 CFR 240.19b-4(f)(3).

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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-00-28 and should be submitted by July 28, 2000.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 25-23, Airworthiness Criteria for the Installation Approval of a Terrain Awareness and Warning System (TAWS) for Part 25 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25-23, Airworthiness Criteria for the Installation Approval of a Terrain Awareness and Warning System (TAWS) for Part 25 Airplanes. The AC provides guidance for designing an acceptable installation for a TAWS that is compliant with Technical Standard Order (TSO) C151. The guidance provided is specific to installations of these systems on transport category airplanes.

DATES: Advisory Circular 25-23 was issued on May 22, 2000, by the Acting Manager of the Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration.

HOW TO OBTAIN COPIES: A paper copy of AC 25-23 may be obtained by writing to U.S. Department of Transportation, Subsequent Distribution Center, SVC-121.23, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, Maryland 20785. The AC also will be available on the Internet at <http://www.faa.gov/avr/air/>

airhome.htm, at the link titled "Advisory Circulars" under the "Available Information" drop-down menu.

FOR FURTHER INFORMATION CONTACT: For technical issues, contact J. Kirk Baker, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, Systems & Equipment Branch, ANM-130L, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5345; fax (562) 627-5210.

For other information contact: Jill DeMarco, FAA, Transport Airplane Directorate, Program Management Branch, ANM-114, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-1313; fax (425) 227-1320.

SUPPLEMENTARY INFORMATION:

Discussion of Comments

On September 23, 1999, the FAA issued a notice of the availability of proposed Advisory Circular (AC) 25.XX, "Airworthiness Criteria for the Installation Approval of a Terrain Awareness and Warning System (TAWS) Approved under Technical Standard Order (TSO) C151." That notice was published in the **Federal Register** on September 30, 1999 (64 FR 52820) and requested public comment on the proposed AC document. Five commenters submitted comments to the proposed AC. A discussion and disposition of each comment follows.

Format of AC

Some commenters request that the format of the proposed AC be improved. One commenter requests that a table of contents or index be included.

The FAA concurs and has added a table of contents to the final document.

Guidance for Part 23 Airplanes

One commenter requests that the proposed AC be revised to include guidance on TAWS installations for airplanes certificated under 14 CFR part 23 (small airplanes).

The FAA does not concur with the commenter's request. The FAA currently is developing a separate AC that provides guidance specific to TAWS installations for part 23 airplanes. By issuing with two separate AC's, the FAA anticipates that there will be less confusion for applicants.

Definition of Class B TAWS Equipment

One commenter suggests that the definition of Class B TAWS equipment be revised to include a note indicating that Class B TAWS requires a GPS input but does not require a radio altitude

input. The commenter states that the inclusion of such a note will help to clarify the composition of Class B TAWS equipment.

The FAA agrees that clarification is appropriate. Paragraph 11.b.(2), "Radio Altimeter," of the final AC has been revised to specify that Class B equipment does not require a radio altitude input.

Regulatory References

One commenter requests that the reference to the requirements of § 91.223 in paragraph 5.a. be revised to add the words "or certified" in the phrase:

"§ 91.223 states that no person may operate a turbine-powered U.S.-registered airplane configured or certified with 6 or more passenger seats * * *."

The FAA disagrees with the addition of these words. The text, as presented in the AC, is quoted directly from § 91.223 of the regulations. An AC is not the vehicle for making changes to the text of current regulations.

System Criticality/Probability

One commenter requests clarification of the descriptions of failure probability that appear in paragraph 5.b., "System Criticality," of the proposed AC. The commenter suggests that the proposed text:

"* * * the applicant must demonstrate that the TAWS possesses a level of reliability commensurate with systems that have a failure probability of 10^{-4} or less per flight hour * * *"

be changed to:

"* * * have a failure probability due to undetected failures (latent failures) of 10^{-4} or less per flight hour."

The commenter also suggests similar changes in the probability descriptions that appear in paragraphs 7.c.(2) and 7.g.(1)(b).

On this same issue, another commenter points out that the reliability value of 10^{-3} , as stated in paragraph 7.c. of the proposed AC, is not consistent with the value of 10^{-4} , specified in paragraph 5.b.

The FAA concurs with these commenters' requests and has revised the final AC accordingly. [Although paragraph 5.b. (as it appeared in the proposed AC) has been eliminated in the final AC, the item noted by the commenter has been clarified and corrected in the final AC in paragraph 9., "System Safety Assessment."]

Project Specific Certification Plan (PSCP)

One commenter suggests that paragraph 7.b. of the proposed AC, concerning the Project Specific

⁷ 17 CFR 200.30-3(a)(12).