

prevailing market, the ROT could bid against the crowd and take the entire trade, as provided by Phlx Rule 1014(g)(i). If one or more ROTs have the necessary liquidity and believe that they can profit by taking order flow away from the crowd by independently offering a better price to the floor broker, they are free to do so.⁹ Thus, the Phlx believes that when read together with existing Phlx rules, Phlx Rule 1033(a)(ii) and OFPA F-32 are well designed to enable the Exchange to provide the required liquidity to execute large orders, while retaining the potential for price competition from ROTs in the crowd.

Finally, the Phlx notes that unlike an exchange with a single specialist and no competing market makers, the Phlx's market structure requires that this activity be permitted so as to allow the Phlx to better compete with the other options exchanges and better serve the investing public

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5),¹¹ in particular, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest, and promote just and equitable principles of trade by enhancing the Exchange's ability to make competitive, fair and orderly markets. Moreover, the Exchange believes that the proposal responds to the needs of investors by facilitating prompt and efficient order execution, while promoting fair competition, consistent with Section 11A(a)(i) and (ii).¹²

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

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

⁹In assessing the competitive effects of a joint venture, the antitrust agencies regard the continued ability for individual members of the joint venture to compete against the venture as an important factor weighing toward its lawfulness. FTC/DOJ Antitrust Guidelines for Collaborations among Competitors at 19 ("In general, competitive concern likely is reduced to the extent that participants have actually continued to compete, either through separate, independent business operations or through membership in other collaborations, or are permitted to do so.")

¹⁰ 15 U.S.C. 78f(b).
¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78k-1(a)(i) and (ii).

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. 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 Phlx consents, the Commission will:

- (A) By order approve such 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, 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 Section. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2001-33 and should be submitted by March 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-3303 Filed 2-11-02; 8:45 am]

BILLING CODE 8010-01-P

¹³ 17 CFR 200.30-3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3391]

State of Tennessee

Maury County and the contiguous Counties of Giles, Hickman, Lawrence, Lewis, Marshall and Williamson in the State of Tennessee constitute a disaster area due to damages caused by heavy rains and flooding that began on January 22, 2002 and continued through January 25, 2002. Applications for loans for physical damage may be filed until the close of business on April 8, 2002 and for economic injury until the close of business on November 6, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

| | Percent |
|---|---------|
| For Physical Damage: | |
| Homeowners With Credit Available Elsewhere | 6.625 |
| Homeowners Without Credit Available Elsewhere | 3.312 |
| Businesses With Credit Available Elsewhere | 7.000 |
| Businesses and Non-Profit Organizations Without Credit Available Elsewhere | 3.500 |
| Others (Including Non-Profit Organizations) With Credit Available Elsewhere | 6.375 |
| For Economic Injury: | |
| Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere ... | 3.500 |

The number assigned to this disaster for physical damage is 339106 and for economic injury the number is 9O4200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 6, 2002.

Hector V. Barreto,
Administrator.

[FR Doc. 02-3374 Filed 2-11-02; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[License No.: 05/05-0219]

Capital Fund, Inc.; Notice of Surrender of License

Notice is hereby given that *Capital Fund, Inc., located at P.O. Box 80225, Lansing, MI 48908-0225*, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Capital Fund, Inc. was licensed by the

Small Business Administration on September 8, 1993.

Under the authority vested by the Act and pursuant to the regulations promulgate thereunder, the surrender of the license was accepted on February 4, 2002, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 5, 2002.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 02-3375 Filed 2-11-02; 8:45 am]

BILLING CODE 8025-01-P

TENNESSEE VALLEY AUTHORITY

Renewal of Regional Resource Stewardship Council

Pursuant to the Federal Advisory Committee Act (FACA) and 41 CFR 102-3.65, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Regional Resource Stewardship Council (Council) has been renewed for a two-year period beginning February 3, 2002. The Council will provide advice to the Tennessee Valley Authority (TVA) on issues affecting TVA's natural resource stewardship activities.

Numerous public and private entities are traditionally involved in the stewardship of the natural resources of the Tennessee Valley region. It has been determined that the Council continues to be needed to provide an additional mechanism for public input regarding stewardship issues.

Further information regarding this advisory committee can be obtained from Sandra L. Hill, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902-1499, (865) 632-2333.

Dated: January 23, 2002.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment, Tennessee Valley Authority.

[FR Doc. 02-3307 Filed 2-11-02; 8:45 am]

BILLING CODE 8120-08-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2001-9972; Formerly FRA Docket No. 87-2; Notice No. 13]

RIN 2130-AB20

Automatic Train Control (ATC) and Advanced Civil Speed Enforcement System (ACSES); Northeast Corridor (NEC) Railroads

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

ACTION: Amendment to Order of Particular Applicability Requiring ACSES Between New Haven, Connecticut and Boston, Massachusetts—Extension of Massachusetts Bay Transit Authority (MBTA) Temporary Operating Protocols.

SUMMARY: FRA amends its Order of Particular Applicability requiring all trains operating on the Northeast Corridor (NEC) between New Haven, Connecticut and Boston, Massachusetts (NEC—North End) to be equipped to respond to the new Advanced Civil Speed Enforcement System (ACSES). The only amendment to this document is the second extension of a previously granted exception that allows MBTA to follow temporary operating protocols whenever it cannot dispatch a train equipped with ACSES. This exception now runs until April 5, 2002.

DATES: The amendments to the Order are effective February 12, 2002.

FOR FURTHER INFORMATION CONTACT: W. E. Goodman, Staff Director, Signal and Train Control Division, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493-6325); Paul Weber, Railroad Safety Specialist, Signal and Train Control Division, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493-6258); or Patricia V. Sun, Office of Chief Counsel, Mail Stop 10, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493-6038).

For instructions on how to use this system, visit the Docket Management System Web Site (www.dms.dot.gov) and click on the "Help" menu. This docket is also available for inspection or copying at room PL-401 on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590-0001, during regular business hours.

SUPPLEMENTARY INFORMATION: The Order of Particular Applicability (Order), as published on July 22, 1998, set

performance standards for cab signal/automatic train control and ACSES systems, increased certain maximum authorized train speeds, and contained safety requirements supporting improved rail service on the NEC. 63 FR 39343. Among other requirements, the Order required all trains operating on track controlled by the National Railroad Passenger Corporation (Amtrak) on the NEC—North End to be controlled by locomotives equipped to respond to ACSES by October 1, 1999. In five subsequent notices, FRA amended the Order to reset the implementation schedule and make technical changes. 64 FR 54410, October 6, 1999; 65 FR 62795, October 19, 2000; 66 FR 1718, January 9, 2001; 66 FR 34512, June 28, 2001; and 66 FR 57771, November 16, 2001.

Background

FRA is making the amendment to this Order effective upon publication instead of 30 days after the publication date in order to realize the significant safety and transportation benefits afforded by the ACSES system at the earliest possible time. All affected parties have been notified.

FRA is not reopening the comment period since the sole amendment to this Order is to extend temporary operating protocols for MBTA that had expired on February 1, 2002. The amendment, which allows these protocols to remain effective until April 5, 2002, will be effective for slightly more than 60 days and is necessary to avoid disruption of rail service. Under these circumstances, delaying the effective date of the amendment to allow for notice and comment would be impracticable, unnecessary, and contrary to the public interest. FRA will continue to monitor the progress of MBTA towards equipping, maintaining and scheduling sufficient units to run all trains with operative ACSES.

Final Extension of MBTA Temporary Operating Protocols

In a December 13, 2001 letter, MBTA requested a three-month extension of the temporary operating protocols because of an anticipated inability to equip sufficient locomotives with ACSES by February 1, 2002. At this stage in its development, new ACSES software contains relatively minor modifications from the software installed on already equipped units. FRA therefore expects the parties to this Order to resolve any remaining issues quickly. With this expectation, FRA grants MBTA a final extension of the temporary operating protocols for slightly more than 60 days. During this