

requirements of Rule 15c2-11 would apply only to that broker-dealer and not to the ATS or ECN that functions as the quotation medium for such order.<sup>25</sup> Therefore, in a case in which an "ineligible" security is being quoted for the first time on the OTCBB through an ATS or ECN, the broker-dealer submitting the quote to the ATS or ECN would be required to submit a Form 211, rather than the ATS or ECN itself.

The Commission does not believe that the commenters raised any issue that would preclude approval of the proposed rule change. In particular, the Commission disagrees with one commenter's view that "the Commission should republish the proposal with a thorough analysis of the issues raised and seek further public comment."<sup>26</sup> The Commission believes that the issues raised by this commenter have been sufficiently addressed by Nasdaq, and that expanding the OTCBB to allow ATS and ECN participation has the potential to increase competition.

#### *B. Accelerated Approval of Amendment No. 1*

The Commission finds good cause for approving Amendment No. 1 to the proposal prior to the thirtieth day after the date of public notice in the **Federal Register**, pursuant to section 19(b)(2) of the Act.<sup>27</sup> Amendment No. 1 clarified the obligations that would be imposed on ATSs and ECNs by the new provisions of NASD Rule 6540. One of these obligations is that an ATS or ECN participating in the OTCBB must reflect non-subscriber access or post-transaction fees in a quote that it posts in the OTCBB montage. The Commission understands that, presently, only one ATS—GlobeNet—has clearly expressed its intent to participate in the OTCBB, and GlobeNet in its second comment letter stated that it "would acquiesce for the time being to a Nasdaq decision to reflect [its] transaction fees in the GlobeNet quote on the OTCBB." GlobeNet also argued that the Commission should approve the proposed rule change "as quickly as possible."<sup>28</sup> Therefore, the Commission does not believe that an additional comment period for Amendment No. 1 is necessary, and that the proposed rule change, as amended, should be approved at this time.

<sup>25</sup> See *id.*

<sup>26</sup> Niehoff.

<sup>27</sup> 15 U.S.C. 78s(b)(2).

<sup>28</sup> GlobeNet II.

#### **VI. Solicitation of Comments on Amended Proposal**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as amended, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2001-44 and should be submitted by June 7, 2002.

#### **VII. Conclusion**

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>29</sup> that the proposed rule change (SR-NASD-2001-44) is approved and that Amendment No. 1 thereto is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>30</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-12337 Filed 5-16-02; 8:45 am]

**BILLING CODE 8010-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-45918; File No. SR-NYSE-2002-18]**

#### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Extending the Pilot Regarding Shareholder Approval of Stock Option Plans through June 30, 2002**

May 13, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

<sup>29</sup> *Id.*

<sup>30</sup> 17 CFR 200.30-3(a)(12).

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 13, 2002, 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 Exchange proposes to extend, until June 30, 2002, the effectiveness of the amendments to Sections 312.01, 312.03 and 312.04 of the Exchange's Listed Company Manual with respect to the definition of a "broadly-based" stock option plan, which were approved by the Commission on a pilot basis (the "Pilot") on June 4, 1999.<sup>3</sup> The Pilot was subsequently amended and extended on March 30, 2001 until September 30, 2001.<sup>4</sup> The Pilot has since been extended until January 11, 2002,<sup>5</sup> March 11, 2002,<sup>6</sup> and May 13, 2002.<sup>7</sup>

#### **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.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 41479, 64 FR 31667 (June 11, 1999) (notice of filing and order granting accelerated approval, on a pilot basis, to File No. SR-NYSE-98-32) ("Original Pilot Approval Order").

<sup>4</sup> Securities Exchange Act Release No. 44141, 66 FR 18334 (April 6, 2001) (order granting approval, on a pilot basis, to the File No. SR-NYSE-00-32).

<sup>5</sup> Securities Exchange Act Release No. 44886 (September 28, 2001), 66 FR 51083 (October 5, 2001) (notice of filing and immediate effectiveness of File No. SR-NYSE-2001-37) ("2001 Extension Request").

<sup>6</sup> See Securities Exchange Act Release No. 45275 (January 14, 2002), 67 FR 2718 (January 18, 2002) (File No. SR-NYSE-2002-03).

<sup>7</sup> See Securities Exchange Act Release No. 45546 (March 12, 2002), 67 FR 10272 (March 18, 2002) (File No. SR-NYSE-2002-14).

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

1. Purpose

On July 13, 2000, the Exchange filed a proposed rule change seeking to extend the effectiveness of the Pilot until September 30, 2003.<sup>8</sup> Following receipt of comments from interested parties and the SEC staff, on January 19, 2001, the Exchange amended the 2000 Extension Request to shorten the three-year extension request to one year and to amend the definition of "broadly based" under the Exchange's rule. While the 2000 Extension Request was under consideration, the Commission extended the Pilot to provide the Commission and the Exchange with additional time to review and evaluate comment letters.<sup>9</sup> On March 30, 2001, the Commission approved the 2000 Extension Request, which amended and extended the Pilot, on a pilot basis until September 30, 2001.<sup>10</sup> The Exchange's 2001 Extension Request became effective on September 28, 2001, on a pilot basis, and extended the Pilot until January 11, 2002 to provide additional time to evaluate the issues presented by the Pilot.<sup>11</sup> The Pilot was again extended until March 11, 2002 and then again until May 13, 2002 for the same reasons.<sup>12</sup>

The Exchange proposes to further extend the effectiveness of the Pilot

<sup>8</sup> Securities Exchange Act Release No. 43111 (August 2, 2000), 65 FR 49046 (August 10, 2000) (notice of filing of File No. SR-NYSE-00-32) ("2000 Extension Request").

<sup>9</sup> See Securities Exchange Act Release Nos. 43329 (September 22, 2000), 65 FR 58833 (October 2, 2000) (notice of filing and immediate effectiveness of File No. SR-NYSE-00-38); 43647 (November 30, 2000), 65 FR 77407 (December 11, 2000) (notice of filing and immediate effectiveness of File No. SR-NYSE-00-52); and 44018 (February 28, 2001), 66 FR 13821 (March 7, 2001) (notice of filing and immediate effectiveness of File No. SR-NYSE-2001-04).

<sup>10</sup> See note 4 *supra*.

<sup>11</sup> See note 5 *supra*. One comment letter was received regarding the extension of the Pilot by the 2001 Extension Request. See letter from Sarah A.B. Teslick, Executive Director, Council of Institutional Investors ("CII") to Jonathan G. Katz, Secretary, Office of the Secretary, Commission, dated October 16, 2001. The CII commented that the 2001 Extension Request should have been released for public comment prior to the Commission approving another extension to the Pilot and that any future proposed extensions should be released for prior public comment, that the Pilot not be extended after January 11, 2002, that the NYSE should be required to submit a dilution standard for approval which should be in place before the 2002 proxy season, and that the Commission act on the proposed disclosure standards for stock option plans. The Commission notes that the disclosure standards were approved by it on December 21, 2001. See note 13 *infra* below.

<sup>12</sup> See notes 6 and 7 *supra*.

until June 30, 2002 to provide additional time to evaluate the issues presented by the Pilot, in light of recently adopted requirements relating to disclosure of equity compensation plan information.<sup>13</sup> The Exchange also represents that its special Committee on Corporate Accountability and Listing Standards is actively considering this issue, among others, and is expected to make a recommendation regarding stockholder approval of stock option plans to the Exchange's Board of Directors in June 2002.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, among other things, that an Exchange have rules 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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section

19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6)<sup>16</sup> thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>17</sup> normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and public interest. The Exchange seeks to have the proposed rule change become operative on or before May 13, 2002, in order to allow the Pilot to continue in effect on an uninterrupted basis. In addition, under Rule 19b-4(f)(6)(iii), the Exchange is required to provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter time as designated by the Commission. The Commission waived the five-day pre-notice and thirty-day operative date requirements for this proposed rule change.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change to extend the Pilot through June 30, 2002, become operative on May 13, 2002. The Commission notes that unless the Pilot is extended, the Pilot will expire and the provisions of Sections 312.01, 312.03, and 312.04 of the Exchange's Listed Company Manual that were amended in the Pilot will revert to those in effect prior to June 4, 1999. The Commission believes that such a result could lead to confusion.

The Commission recognizes that the Pilot has generated many comment letters from commenters that do not support the NYSE's definition of "broadly-based" stock option plans under the Pilot.<sup>19</sup> The Commission also notes that many commenters were critical of the NYSE's existing rules on broadly-based plans prior to the adoption of the original Pilot. As noted above, if the Pilot is not extended, the rules prior to the Pilot will go into effect. The proposed rule change merely extends the duration of the Pilot for only a short period of time and does not deal with the substantive issues presented by the Pilot itself.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change to extend the Pilot through June 30, 2002, become

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> *Id.*

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>19</sup> See Original Approval Order, note 3 *supra*.

<sup>13</sup> Release Nos. 33-8048 and 34-45189 (December 21, 2001), 67 FR 232 (January 2, 2002).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

operative on May 13, 2002.<sup>20</sup> At any time within 60 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, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the File No. SR-NYSE-2002-18 and should be submitted by June 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

**Margaret H. McFarland,**

*Dupty Secretary.*

[FR Doc. 02-12406 Filed 5-16-02; 8:45 am]

**BILLING CODE 8010-01-P**

#### SMALL BUSINESS ADMINISTRATION

##### [Declaration of Disaster #3415]

##### Commonwealth of Kentucky; Amendment # 1

In accordance with a notice received from the Federal Emergency Management Agency, dated May 9, 2002, the above numbered declaration is hereby amended to include Boyle,

<sup>20</sup> For purposes only of accelerating the operative date of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

Casey, Clay, Floyd, Jackson, Knott, Knox, Larue, Laurel, Letcher, Marion, Martin, McCreary, Nelson, Pike, Pulaski, Rockcastle, Taylor, Washington and Whitley Counties in the Commonwealth of Kentucky as disaster areas due to damages caused by severe storms, tornadoes and flooding occurring on April 27, 2002 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Adair, Anderson, Bell, Breathitt, Estill, Garrard, Green, Harlan, Johnson, Lawrence, Lee, Leslie, Lincoln, Madison, Magoffin, Mercer, Owsley, Perry, Russell, Spencer and Wayne Counties in the Commonwealth of Kentucky; Campbell, Claiborne and Scott Counties Tennessee; Buchanan, Dickenson and Wise Counties Virginia; and Mingo and Wayne Counties West Virginia. All other contiguous counties have been previously declared.

The economic injury numbers assigned are 9P6400 for Tennessee; 9P6500 for Virginia; and 9P6600 for West Virginia.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is July 6, 2002, and for economic injury the deadline is February 7, 2003.

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

Dated: May 10, 2002.

#### S. George Camp,

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 02-12467 Filed 5-16-02; 8:45 am]

**BILLING CODE 8025-01-P**

#### SOCIAL SECURITY ADMINISTRATION

##### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the

information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1-A-21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454, or by writing to the address listed above.

##### 1. Letter to Landlord Requesting Rental Information—0960-0454

Form SSA-L5061 is used by SSA to provide a nationally uniform vehicle for collecting information from landlords in making a rental subsidy determination in the Supplemental Security Income (SSI) Program. The information is used in deciding whether income limits are met for SSI eligibility. The respondents are landlords who provide subsidized rental arrangements to SSI applicants and recipients.

*Number of Respondents:* 49,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Average Burden:* 8,167.

##### 2. Continuation of Full Benefit Standard for Persons Institutionalized—0960-0516

SSA is required by law to establish procedures for collecting information on whether an SSI recipient who becomes institutionalized (e.g., hospital, nursing home) may be eligible for continued benefits, based on the full federal benefit rate, if a physician certifies that he expects the period of medical confinement will last no more than 90 days. The individual (or someone acting on his behalf) must demonstrate that he needs to pay some or all of the expenses of maintaining the home to which he expects to return. The respondents are applicants for SSI benefits.

*Number of Respondents:* 60,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 5 minutes.

*Estimated Annual Burden:* 5,000 hours.