

In addition, on July 1, 2002, Nasdaq launched a new technology platform (the "Internal SIP") on which Nasdaq will perform its duties as the exclusive SIP for the Nasdaq UTP Plan until a new securities information processor is chosen.<sup>7</sup> Quotation information provided by ADF market participants will be available through two Internal SIP feeds. The Internal SIP will disseminate the consolidated best bid and offer of the ADF, along with the best bid and offer of each UTP Exchange and Nasdaq market participant, through the UTP Quotation Data Feed. In addition, the Internal SIP will disseminate the individual quotations of each broker or dealer quoting in the NASD ADF via the OTC Montage Data Feed (OMDF).

Based on these developments, the Commission believes that participation in SuperMontage will be voluntary, because market makers, exchange specialists, ECNs and ATSS will have alternative venues in which to display their quotes, including the ADF.

Certain market participants have indicated that they are firmly committed to using the ADF as their order collection and display facility but require further time to adapt and test their systems to participate through the ADF. To prevent any unfairness, the Commission believes that SuperMontage should begin operation on October 11, 2002, assuming that within five business days from the entry of this Order, one or more market participants certifies, under oath, that such entity at the time of the oath intends to use ADF as its primary order collection and display facility for a significant portion of its business in Nasdaq securities, and provides a list of the Nasdaq securities for which it currently intends to post quotes on the ADF. In the absence of any such certification, SuperMontage shall become effective immediately after the fifth business day of the entry of this order. Accordingly, subject to the certification process, the Commission finds that the implementation of the ADF satisfies the conditions stated in the SuperMontage Approval Order. As referenced in Amendment No. 5 to the SuperMontage proposal, and consistent with subsequent conversations with the Commission staff, we understand that the NASD will roll out SuperMontage over a six-week period.

The Commission continues to review Nasdaq's pending application to register

as a national securities exchange. The entry of this Order does not address or resolve the issues presented in that application, does not make any findings with respect thereto, and does not suggest what, if any, future actions the Commission may take with regard to that application.

*By the Commission.*

Dated: August 29, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46425; File No. SR-NYSE-2002-24]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the New York Stock Exchange, Inc. To Adopt Amendments to Exchange Rule 342 ("Offices—Approval, Supervision and Control") August 28, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 12, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The NYSE filed an amendment to the proposed rule change on August 16, 2002.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposal consists of the adoption of proposed amendments to NYSE Rule 342 ("Offices—Approval, Supervision and Control"). The proposed amendments would recognize the National Association of Securities Dealers' General Securities Principal Examination ("Series 24 Examination") as an acceptable qualification alternative to the General Securities Sales Supervisor Qualification Examination ("Series 9/10

Examination") for supervisory persons whose duties do not include the supervision of options or municipal securities sales activity. In addition, the amendments update and clarify certain provisions of the Rule.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in brackets.

\* \* \* \* \*

Rule 342. Offices—Approval, Supervision and Control

(a) through (d)—NO CHANGE—Inclusion of (d) below is for reference purposes only.

(d) Qualified persons acceptable to the Exchange shall be in charge of:

(1) Any office of a member or member organization,

(2) Any regional or other group of offices,

(3) Any sales department or activity.

(e) through Supplementary Material .12—NO CHANGE.

.13 Acceptability of supervisors. (a) Generally.—Any member, allied member or employee who is a candidate for acceptability under (d)(1), (2), or (3) above *must* [should] have a creditable *three year* record as a registered representative or equivalent experience, and [is expected to] *must* pass [either the Allied Member Examination or the Branch Office Manager Examination to qualify under (d)(1) or (2), or] *the General Securities Sales Supervisor Qualification Examination (Series 9/10) or another* [an] examination acceptable to the Exchange which demonstrates competency *relevant to assigned responsibilities* [to supervise a specific sales department or activity to qualify under (d)(3)]. *The General Securities Principal Examination (Series 24), if taken and passed after July 1, 2001, is an acceptable alternative for persons whose duties do not include the supervision of options or municipal securities sales activity.* The examination requirement may be waived at the discretion of the Exchange. [Special examinations may be arranged for persons whose principal work is in unusual fields.]

\* \* \* \* \*

#### 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

available at <http://island.com/prodsvr/developers/resources/emailarchive/20020805.asp>.

<sup>7</sup> See Letter from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, to Robert L.D. Colby, Deputy Director, Division of Market Regulation, Commission (June 28, 2002).

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

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

<sup>3</sup> See letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated August 15, 2002, and attachments ("Amendment No. 1").

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

*Recognition of the Series 24 Examination*

The Exchange proposes to amend NYSE Rule 342 ("Offices—Approval, Supervision and Control") to recognize the National Association of Securities Dealers' ("NASD") General Securities Principal Examination ("Series 24 Examination") as an acceptable qualification alternative to the General Securities Sales Supervisor Qualification Examination ("Series 9/10 Examination") for supervisory persons whose duties do not include the supervision of options or municipal securities sales activity. The proposed amendment is an Exchange initiative to eliminate, when possible, duplicative examination qualification requirements. As of July 2, 2001, NASD has enhanced the Series 24 Examination by including test questions sufficient to provide appropriate coverage of NYSE rules.

*Background and Detail*

NYSE Rule 342 prescribes the Exchange's general supervisory requirements for members and member organizations. Among these requirements are qualification standards for personnel delegated supervisory responsibility. NYSE Rule 342.13 ("Acceptability of Supervisors") requires that a person delegated certain supervisory responsibilities<sup>4</sup> should "have a creditable record as a registered representative or equivalent experience, and is expected to pass either the Allied Member Examination or the Branch Office Manager Examination \* \* \*." The "Branch Manager Examination" is now known as the General Securities Sales Supervisor Qualification Examination or the Series 9/10 Examination. Currently, one must pass the Series 9/10 Examination, or its historical equivalent (e.g., the Series 8 Examination) in order to qualify as a branch office manager. On-site qualified branch office managers are required in

<sup>4</sup> Reference is made to 342(d)(1), persons in charge of "any office of a member or member organization" and 342(d)(2), persons in charge of "any regional or other group of offices."

branch offices with four or more registered persons.

The proposed amendments would eliminate the reference to the "Branch Office Manager Examination" and specify the Series 9/10 Examination as the referenced qualification requirement. In addition, the Series 24 Examination would be referenced and, if taken and passed after July 1, 2001, would be recognized as an alternative to the Series 9/10 Examination for persons whose duties do not include the supervision of options or municipal securities sales activity.

Though not included in the proposed rule amendments, a person with a Series 24 registration who is delegated responsibility to supervise options sales activity could qualify to do so by passing the Options Principal Examination ("Series 4 Examination") or, alternately, the Series 9 Examination. If delegated responsibilities include supervision of municipal securities sales activity, such person could qualify by passing the Municipal Securities Principal Examination ("Series 53 Examination") or the Series 10 Examination. The Exchange is currently working with the NASD to develop a comprehensive examination that will incorporate the elements of both the Series 24 and the Series 9/10 Examinations and would qualify persons as an NYSE Securities Sales Supervisor or an NASD Securities Principal.

*Additional Amendments to Rule 342.13*

The proposed rule amendments to NYSE Rule 342.13 would also accomplish the following:

- Clarify that, absent a waiver by the Exchange, the qualification requirement to supervise "any sales department or activity"<sup>5</sup> is the Series 9/10 Examination, the Series 24 Examination, or another examination acceptable to the Exchange which demonstrates competency relevant to assigned responsibilities.

- Codify that supervisor candidates must have a creditable "three year" record as a registered representative or equivalent experience. The addition of the "three year" requirement codifies the current written Interpretation of the Rule.

- Eliminate reference to the "Allied Member Examination." This examination is no longer given to Allied Member candidates, since qualification examination requirements are now determined on a case-by-case basis according to the functions and

<sup>5</sup> Incorporated into 342.13 by reference to 342(d)(3).

responsibilities of the prospective Allied Member.

- Eliminate reference to "special examinations" that "may be arranged for persons whose principal work is in unusual fields." The Rule's prior reference to an "examination acceptable to the Exchange which demonstrates competency relevant to assigned responsibilities" renders the "special examinations" reference redundant.

- Clarify the prerequisites outlined in the first sentence of NYSE Rule 342.13 by replacing the word "should" and the phrase "is expected to" with the less ambiguous word, "must."

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of section 6(c)(3)(B) of the Act.<sup>6</sup> Under that Section, it is the Exchange's responsibility to prescribe standards of training, experience, and competence for persons associated with Exchange members and member organizations.

In addition, the Exchange, under section 6(c)(3)(B),<sup>7</sup> may bar a natural person from becoming a member or person associated with a member if such natural person does not meet such prescribed standards of training, experience, and competence as are prescribed by the rules of the Exchange.

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

The Exchange believes that the proposal does not impose any burden on competition 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*

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 Exchange consents, the Commission will:

<sup>6</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>7</sup> *Id.*

(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 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 number SR-NYSE-2002-24 and should be submitted by 21 days from September 26, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-22605 Filed 9-4-02; 8:45 am]

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#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

##### Determinations Under the African Growth and Opportunity Act

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

**ACTION:** Notice.

**SUMMARY:** The United States Trade Representative (USTR) has determined that Cape Verde has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the

customs procedures required by the African Growth and Opportunity Act (AGOA). Therefore, imports of eligible products from Cape Verde qualify for the textile and apparel benefits provided under the AGOA.

**DATES:** Effective August 28, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Chris Moore, Director for African Affairs, Office of the United States Trade Representative, (202) 395-9514.

**SUPPLEMENTARY INFORMATION:** The AGOA (Title I of the Trade and Development Act of 2000, Pub. L. No. 106-200) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as "beneficiary sub-Saharan African countries," provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 (Oct. 2, 2002), the President designated Cape Verde as a "beneficiary sub-Saharan African country." Proclamation 7350 delegated to the United States Trade Representative the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that Cape Verde has taken, I have determined that Cape Verde has satisfied these two requirements.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 to subchapter XIX of chapter 98 of the HTS are each modified by inserting "Cape Verde" in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the

applicable visa requirements. *See Visa Requirements Under the African Growth and Opportunity Act*, 66 FR 7837 (2001).

**Jon M. Huntsman, Jr.,**

*Acting United States Trade Representative.*

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#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

[Summary Notice No. PE-2002-53]

##### Petitions for Exemption; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of dispositions of prior petitions for exemption.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267-8033, Sandy Buchanan-Sumter (202) 267-7271, Vanessa Wilkins (202) 267-8029, or Denise Emrick (202) 267-5174, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 30, 2002.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

##### Dispositions of Petitions

*Docket No.:* FAA-2002-11574.

*Petitioner:* AirNet Systems, Inc.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/*

*Disposition:* To permit AirNet Systems to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

*Grant/May 13, 2002, Exemption No. 6772B*

*Docket No.:* FAA-2002-11567.

*Petitioner:* King Airlines, Inc.

<sup>8</sup> 17 CFR 200.30-3(a)(12).