corporate debt market and to better detect fraud and foster investor confidence in the fairness of that market. As the Commission is aware, both NASD Regulation and Nasdaq currently have in place surveillance and examination programs covering the over-the-counter corporate debt market, NASD Regulation will continue to investigate complaints concerning over-the-counter corporate bond transactions and will, based on the database of TRACE transactions reports submitted, develop automated monitoring and oversight capabilities for the corporate debt market to ensure the highest levels of investor protection and market integrity.

13. Dissemination of Trade Report Information to Vendors

NASD is proposing to immediately disseminate the following trade report information to market data vendors for public use: (1) NASD Symbol; (2) CUSIP; (3) Date/Time of Execution of Trade; (4) Price; (5) Yield; and (6) Actual Quantity of Bonds Traded (except high yield and unrated (NR/NA) trades over a 1 million dollar par value will be disseminated as ''1MM+'' and investment-grade transactions over a 5 million dollar par value will be disseminated as ''5MM+'').[9] NASD believes a two-tiered approach of a 1MM+ identifier for high-yield transactions is appropriate given the lack of effective hedges in the high-yield market and that market's potential sensitivity to a lack of liquidity, while a 5MM+ identifier for investment-grade trades draws an appropriate and reasonable balance between the desire for increased transparency and any potential dangers to market function in the more liquid investment-grade debt market.[10] TRACE information will be distributed to vendors in a fashion and format similar to Nasdaq's Trade Dissemination Service (''NTDS'') which is used to disseminate last sale transaction reports in Nasdaq securities.

Based on the above, Nasdaq believes that the proposed rule changes are consistent with the provisions of Section 15A(b)(6) of the Act in that the proposals are designed to prevent manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in the regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities.

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

Nasdaq does not believe that the proposed rule change will result in 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

Written comments were neither solicited nor received.

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

Within 120 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 self-regulatory organization 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. Commenters are specifically encouraged to address the following issues: What information should be reported? How immediate should reporting be? What systems changes are required to support trade reporting to a central facility? Are there ways to improve the proposed trade reporting system that would improve transparency and reduce the cost of implementation? Are the proposed methods of reporting price (*i.e.,* inclusive of markups, markdowns, and commissions) appropriate in light of broker-dealer confirmation disclosure obligations for corporate debt transactions under Rule 10b–10? Are the proposed facilities sufficient for trade reporting and trade comparison? Is the phase-in schedule appropriate? Is the method of trade report dissemination appropriate? Should Rule 144A transactions be treated differently? Is the timetable for operation of the TRACE system to begin in Spring 2000 appropriate? 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 would refer to File No. SR–NASD–99–65 and should be submitted by February 8, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32060 Filed 12–9–99; 8:45 am]

BILLING CODE 8010–01–M

[9] NASD will not disseminate trade report information for transactions involving Rule 144A-eligible, privately-placed debt securities, including PORTAL-designated and investment grade DTC-eligible debt. Trade reports in stand-alone baby bonds will also not be disseminated (See Section 7).

[10] TRACE will disseminate transaction reports received during system hours. However, only TRACE transactions executed and reported to TRACE prior to 5:15 p.m. Eastern Time will be used to calculate that day's high, low, last sale, and volume for individual TRACE securities. Transaction reports submitted to TRACE after 5:15 p.m. Eastern time will be disseminated with an ''.A'' to identify them as transactions not affecting high, low, last sale, and volume market aggregates.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42194; File No. SR–NYSE–99–29]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving the Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1, 3, and 4 to the Proposed Rule Change for the NYSE's Continued Listing Standards

December 1, 1999.

I. Introduction

On June 22, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 under the Act,[2] a proposed rule change to amend the NYSE's continued listing standards.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

On July 26, 1999, the Commission approved on an accelerated basis the proposed changes as a pilot program (''Pilot'') scheduled to expire on November 1, 1999.[3]

Notice of the proposal was published in the **Federal Register** on August 2, 1999.[4] The Commission received three comment letters on the proposal.[5] On October 26, 1999, the NYSE submitted Amendment No. 1, proposing to revise the continued listing criteria applicable to closed-end investment companies registered under the Investment Company Act of 1940 (''Funds'').[6] On November 1, 1999, the NYSE submitted Amendment No. 2, proposing to extend the Pilot until December 1, 1999.[7] The Commission approved Amendment No. 2 on an accelerated basis on November 1, 1999.[8] On November 18, 1999, the NYSE submitted Amendment No. 3, proposing to extend the period during which an issuer is allowed to reach the proposed minimum stock price for companies whose average closing price of their securities fell below a dollar for 30 consecutive trading days.[9] On November 26, 1999, the NYSE submitted Amendment No. 4, making several technical changes to the proposed rule text.[10] This notice and order approves the proposed rule change, as amended, and solicits comments from interested persons on Amendment Nos. 1, 3, and 4.

II. Description of the Proposal

The proposal would modify several of the NYSE's existing continued listing criteria, codify certain Exchange policies regarding its continued listing criteria, replace certain of the current criteria with new continued listing criteria, and create subsections in the continued listing section.[11]

The Exchange's current numerical continued listing criteria include requirements regarding size, earnings, and share distributions. The proposal would replace the Exchange's current numerical continued listing criteria with a financial standard subjecting a company to suspension and delisting if: (i) Its global market capitalization and its stockholders' equity each fall below $50 million, or (ii) Its average global market capitalization is below $15 million over 30 consecutive trading days. These two standards would apply to every company, whether domestic or non-U.S., and whether listed under the ''adjusted earnings'' or ''cash flow'' standard.[12]

Second, the proposal would implement a new continued listing standard for those companies that quality under the ''global market capitalization'' standard.[13] Such a company would be subject to delisting if: (i) Its global market capitalization is below $500 million and its total revenues are below $50 million over the past 12 months.[14] (ii) Its average global market capitalization is below $100 million over 30 consecutive trading days. In the event that such a company can qualify under one of the other original listing criteria, however, it would not be subject to delisting.

With respect to the $50 million market capitalization and $50 million stockholders' equity standard, a company that falls below this continued listing criteria would be permitted 18 months to re-establish both its market capitalization and its stockholders' equity to be considered in conformity with continued listing standards.[15] With respect to the $15 million minimum for average global market capitalization, upon notification, the company would be required to restore its market capitalization to at least $15 million within 18 months.

Third, the proposal would adopt a price criteria applicable to all issuers. Specifically, the proposal would add a new minimum continued listing standard that would be triggered when a security's average closing price over a 30-trading-day period falls below $1.00.[16] With respect to the closing price minimum of $1.00, once notified, a company would have the later of its next annual meeting date or six months to return its average stock price to above $1.00. To alert issuers, the Exchange intends to notify a company whose average price falls below $5.00 over a 30-trading-day period of the consequences of a further decline in its share price to below $1.00. Each company so identified and notified would then be tracked by the Exchange and its price monitored. If this is the only criteria that causes a company to fall below the Exchange's continued listing standards under Para. 802.01 of the *Listing Manual,* the Exchange generally would not commence suspension and delisting procedures for the later of the company's next annual meeting date or six months. However, the company must notify the Exchange within 10 business days of receipt of its notification of its intent to cure this deficiency or be subject to immediate suspension and delisting. In the event that, at the expiration of the cure period, a $1.00 share price is not attained, the Exchange will commence suspension and delisting procedures.

Fourth, under the proposal, a Fund would be subject to immediate suspension and delisting procedures if the average market capitalization over 30 consecutive trading days is below $15 million or the Fund ceases to maintain its closed-end status.[17] The Exchange would notify the fund if the Average market capitalization falls below $25,000,000 and advise the Fund of the listing standard. Funds would no longer be subject to the procedures of having to submit plans to the Exchange to re-establish their compliance with the continued listing criteria. Funds would

[3] *See* Securities Exchange Act Release No. 41648 (July 26, 1999), 64 FR 41986.

[4] *Id.*

[5] *See* Letters to Jonathan G. Katz, Secretary, SEC, from Frank G. Zarb, President and CEO, NASD, dated July 19, 1999 (''NASD''); Marcia L. MacHarg, Counsel for the Independent Directors, Jakarta, dated August 20, 1999 (''Jakarta''); and Ari Burstein, Assistant Counsel, ICI, dated August 23, 1999 (''ICI'').

[6] *See* Letter to Richard C. Strasser, Assistant Director, Division of Market Regulation (''Division''), SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated October 25, 1999 (''Amendment No. 1'').

[7] *See* Letter to Jonathan Katz, Secretary, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated November 1, 1999 (''Amendment No. 2'').

[8] *See* Securities Exchange Act Release No. 42087, 64 FR 60872 (November 8, 1999).

[9] *See* Letter to Richard C. Strasser, Assistant Director, Division, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated November 17, 1999 (''Amendment No. 3'').

[10] *See* Letter to Richard C. Strasser, Assistant Director, Division, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated November 24, 1999 (''Amendment No. 4'').

[11] On July 26, 1999, the date the Commission granted accelerated approval to the Pilot, the 30-day clock for computing the various averages began and all listed companies became subject to these proposed continued listing standards.

[12] In calculating the market capitalization of non-U.S. issuers for continued listing standards the NYSE will determine the total number of outstanding shares from the latest SEC filing and multiply that number by the closing price in the issuer's home market. The NYSE explained that this number would cover all ordinary shares of the issuer, which would include the shares held in the home market (and elsewhere outside of the U.S.) as well as those shares held by the depositary bank that underlie the American Depositary Receipts (''ADRs''). Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Terri Evans, Special Counsel, and Heather Traeger, Attorney, Division, SEC, on November 26, 1999.

[13] *See* Securities Exchange Act Release No. 41834 (September 3, 1999), 64 FR 50129 (September 15, 1999).

[14] The NYSE's review would be based on a company's unaudited Quarterly Reports. Consequently, if a company were to restate its financials, the NYSE would re-evaluate the company's eligibility for continued listing on the Exchange. Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Deborah Flynn, Special Counsel, Division, SEC, on July 12, 1999.

[15] *See* Paras. 802.02 and 802.03 of the *Listing Manual.*

[16] *See* Amendment No. 3, *supra* note 9.

[17] *See* Amendment No. 1, *supra* note 6.

continue to be subject to the minimum market price criteria of $1.00 per share.

Fifth, the proposal would also codify a specific delisting criteria for real estate investment trusts (''REITs'') with less than three years of operating history of $30 million in both market capitalization and stockholders' equity. The proposal would also incorporate into the REIT section the minimum standard of $15 million for market capitalization. The proposal would create a new policy that a REIT is subject to delisting immediately upon the loss of its REIT status if the resultant entity is unable to qualify as an original listing as a corporation (or other operating company) at that time. Additionally, upon attainment of three years of operating history, the REIT would be subject to the numerical criteria generally applicable to capital or common stock proposed above.

Finally, the proposal would clarify and codify the Exchange's policy whereby a company that files or announces an intent to file for reorganization under the bankruptcy laws is not subject to automatic delisting. In such a situation, the Exchange could exercise discretion to continue the listing and trading of the securities of the company. Once identified, the Exchange monitors the company's performance against the remaining continued listing standards, the compliance with which may be determined on the basis of price indications, as opposed to a 30-trading-day average. If a company that is below any continued listing standard enumerated in proposed Para. 802.01B of the *Listing Manual* (''Numerical Criteria for Capital or Common Stock'') files or announces an intent to file for such relief (or if a company having filed for bankruptcy becomes below another continued listing standard), it would be subject to immediate suspension and delisting. Notwithstanding the preceding, the Exchange may at any time exercise its discretion to proceed with suspension and delisting procedures based solely upon a bankruptcy filing.

The proposal would create an additional delisting criteria to address non-numerical indications in financial statements of unsatisfactory financial performance. These additional criteria could lead to the delisting of a company that may otherwise continue to meet the specifically-enumerated numerical criteria section 802.01 of the *Listing Manual.* For example, the Exchange views the disclosure contained in the independent account's opinion that the company receives on its financial statements as providing one such indication. Independent public account's opinions that might indicate unsatisfactory financial performance include: (i) A qualified opinion, (ii) An adverse opinion, (iii) A disclaimer opinion, or (iv) An unqualified opinion with a ''going concern'' emphasis.

In addition, if a company that emerges from being below continued listing standards again falls below continued listing standards within 12 months, the Exchange will scrutinize the original methods of financial recovery taken by the company. In this regard, the Exchange would also examine the relationship of the two incidents of falling below continued listing standards. Exchange staff would then take the requisite action, which may include truncating the procedures described in Paras. 802.02 and 802.03 of the *Listing Manual,* or immediately initiating suspension and delisting procedures.

The proposal would codify and provide more specificity to the Exchange's current policy of requesting companies that trigger one or more of the factors outlined in ''Other Criteria'' to comply with the procedures outlined in Paras. 802.02 and 802.03 of the *Listing Manual* when it determines it is appropriate to do so. For instance, the Exchange has historically requested additional information from companies it has identified as having a significant reduction in operating assets. Such information has often taken the form of a ''plan'' as defined in Paras. 802.02 and 802.03 of the *Listing Manual.*

III. Summary of Comments and NYSE's Response

The Commission received three comment letters on the proposal.[18] The NASD opposed the proposed as being anti-competitive, while Jakarta and the ICI opposed portions of the proposed continued listing standards for Funds.

In its letter, the NASD opposed the adoption of new listing criteria that would increase the number of large Nasdaq issuers eligible for listing on the NYSE, while the NYSE retains rules restricting companies from voluntarily delisting from the NYSE and restricting off-board trading activity by NYSE members. The NASD contends that the proposal, in conjunction with NYSE Rules 390 and 500, provides the NYSE with an affair competitive advantage. Therefore, the NASD contends that the NYSE should not be allowed to adopt any rule change that increases the Exchange's ability to obtain or retain issuer listings while NYSE Rules 390 and 500 remain in effect.

In response, the Exchange argues that the NASD's argument is unrelated to the current proposal and further, that the proposed rule change to the continued listing standards is a change, not a reduction, and is roughly neutral in terms of the number of companies affected.[19] The NYSE also reiterated that there are companies that are below the old standards but compliant under the new, and there are companies that were in good standing previously that are below the new standards.[20]

In its letter, Jakarta suggested that the proposed minimum market capitalization and assets requirements for continued listing of Funds be reduced significantly below $50 million. Emphasizing the peculiarities of a Fund, Jakarta queried why a Fund that meets the initial listing requirement (which is now $60 million) should be penalized through delisting solely as a result of a decline in assets or market value due to economic and political events beyond the control of the Fund's manager. Jakarta also questioned the extent of the proposed 400% increase in the continued listing market capitalization and asset requirements from $12 million to $50 million for Funds. Jakarta suggested that existing Funds be accorded some form of grandfather relief and suggested that any Fund meeting the continued listing criteria in effect prior to the Pilot be permitted to rely on those criteria to maintain its listing on the NYSE.

ICI also focused on the nature of Funds noting that a Fund's market capitalization and net assets will fluctuate significantly from year-to-year, or even from month-to-month, depending on market conditions. Thus, ICI reiterated Jakarta's position that this volatility in the total market capitalization and net assets of a Fund is beyond the Fund's control and is unrelated to its suitability for listing, particularly if a Fund meets the initial asset test of $60 million and continues to meet the requirements as to trading volume and number of shareholders. Additionally, ICI explained that it is more difficult for Funds to raise additional cash than it is for operating companies because of restrictions under the Investment Company Act of 1940. ICI also suggested that the 12 and 18 month periods are too short and too rigid because they condition a Fund's continued listing on short-term improvements. ICI also expressed concern that the Commission had

[18] *See supra* note 5.

[19] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jonathan G. Katz, SEC, dated September 2, 1999.

[20] *Id.*

granted accelerated approval to the Pilot program, which immediately subjects all Funds to the new continued listing standards, without first providing interested parties the opportunity to comment.

In response to these letters and numerous oral comments from a number of Funds, the Exchange submitted Amendment No. 1.[21] As previously described, Amendment No. 1 proposes to modify its initial proposal to subject a Fund to immediate suspension and delisting procedures if the average market capitalization over 30 consecutive trading days is below $15,000,000 or the Fund ceases to maintain its closed-end status.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[22] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[23] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public.

The development and enforcement of adequate standards governing the initial and continued listing of securities is an activity of critical importance to financial markets and the investing public. Listing standards serve as a means for a marketplace to screen issuers and to provide listed status only to bona fide companies with sufficient float, investor base, and trading interest to maintain fair and orderly markets. Once an issuer has been approved for initial listing, the maintenance criteria allow a marketplace to monitor the status of that issuer.

The proposal would replace the current financial continued listing criteria with standards subjecting a firm to delisting if its global market capitalization and its stockholders' equity each fell below $50 million or its average global market capitalization is below $15 million over 30 consecutive trading days. Additionally, companies that qualify for initial listing under the global market capitalization standards will be subject to delisting if their total global market capitalization is below $500 million and their total revenues are below $50 million over the past 12 months, or their average global market capitalization is below $100 million over 30 consecutive trading days. The Commission finds that the proposed rule change is a reasonable action by the NYSE in light of the globalization of today's market. The Commission believes that a company's size and the amount of stockholders' equity in a company are not inappropriate measures of a company's suitability for listing on an exchange. Further, the Commission believes that the continued listing criteria for companies listing under the global market capitalization standard is reasonable and consistent with the alternative original listing standard previously approved by the Commission.[24]

The proposal would also adopt a new minimum continued listing standard applicable to all issuers. The standard would be triggered when a security's average closing price over a 30-day-trading period falls below $1.00, and companies would have the later of their next annual meeting date or six months to cure the deficiency. The Commission believes that while the maintenance standard requiring the $1.00 closing price minimum will have an impact on some issuers, the potential impact is not unreasonable. In maintaining its market, the NYSE has determined to remove extremely low-priced stocks. The Commission finds that the $1.00 closing price minimum is a reasonable measure for the NYSE to maintain its quality control standards for issuers quoted on the Exchange. In establishing criteria to uphold the quality of the market, it is apropriate for the NYSE to set a minimum for the stock price that is acceptable in conjunction with the other standards for listing and maintenance.

The proposal also codifies continued listing criteria for Funds. The proposal, as amended, subjects a Fund to immediate suspension and delisting procedures if the average market capitalization over 30 consecutive trading days is below $15 million. The Commission recognizes that Funds are not traditional operating entities and therefore, it is not possible to apply the same standards specified as continued listing criteria for other listed companies. Thus, the Commission believes that the Exchange's proposed continued listing standards serve as an acceptable means for delisting those Funds that the Exchange believes are unsuitable for continued listing because of insufficient size. The Commission believes that notifying Funds when their average market capitalization falls below $25 million will adequately inform the Funds that they are in jeopardy of immediate delisting if their market capitalization should fall to $15 million. In addition, the Commission notes that Funds will also be subject to delisting under the Exchange's minimum market price criteria of $1.00 per share provision and the discretionary delisting provision, thereby balancing the special circumstances of Funds with the need to protect investors.

The proposal also codifies specific continued listing criteria for REITs with less than three years of operating history. The proposal requires that REITs maintain their REIT status (unless the REIT can qualify as an original listing corporation) and a minimum standard of market capitalization of $15,000,000 to avoid being subject to delisting. REITs with more than three years of operating history are subject to the proposal's continued listing criteria generally applicable to capital or common stock.

The Commission recognizes that in many cases REITs are not traditional operating entities and therefore, it may not be appropriate to hold a REIT with less than three years of operating history to the same continued listing standards applicable to other companies. The Commission believes that the minimum continued listing criteria of $30 million in both market capitalization and stockholders' equity is an acceptable means for screening out those REITs that the Exchange believes should be delisted due to insufficient size. The Commission also believes that, in establishing criteria to uphold the quality of the market, it is appropriate for the Exchange to set a minimum market capitalization standard of $15 million and require REITs to maintain their REIT status for continued listing, thereby striking a balance between the desire of REITs to remain listed on the NYSE and investor protection concerns.

The proposal clarifies and codifies Exchange policy regarding companies that file or announce an intent to file for bankruptcy. The company may no longer face automatic delisting procedures. Instead, the Exchange will have discretion to continue the listing and trading of the company's securities based on the company's performance with respect to the remaining continued listing standards. A company that is below any of the 802.01B continue listing standards that also files or announces intent to file for bankruptcy,

[21] *See* Amendment No. 1, *supra* note 6.

[22] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b)(5).

[24] *See supra* note 13.

however, will remain subject to immediate suspension and delisting procedures.

The Commission believes that certain flexibility in applying continued listing standards may occasionally be necessary when establishing procedures to uphold the quality of the market. The Commission believes that the proposed flexibility in the bankruptcy context is reasonable to enable the Exchange to evaluate a company's position, particularly because a company might satisfy all of the continued listing criteria yet file for bankruptcy simply to restructure, for example. Accordingly, the Commission believes it is reasonable for the Exchange to have the discretion to evaluate a company's status to prevent premature, automatic delisting of a company otherwise qualified for continued listing on the Exchange. The Commission notes that notwithstanding the preceding, the Exchange may at any time exercise its discretion to proceed with suspension and delisting procedures based solely upon a bankruptcy filing.

The proposal also would add to the factors for consideration under the delisting criteria that address non-numerical indications in financial statements of unsatisfactory financial performance. The proposal allows the Exchange to review an independent public accountant's opinions that might indicate poor financial performance including a qualified, adverse, disclaimer, or unqualified opinion with a ''going concern'' emphasis. The Commission believes that adding this factor to the list of criteria that the Exchange may review to delist a company provides greater transparency for companies that may be evaluated under this discretionary standard.[25]

The proposal would allow the Exchange to scrutinize a company's recovery tactics if the company emerges from being below continued listing standards but then falls below continued listing standards within 12 months. In such a case, the Exchange could truncate the evaluation and follow-up procedures for companies falling below maintenance standards. Furthermore, if a company meets any of the ''other'' delisting criteria, the proposal would permit the Exchange to require that the company immediately comply with the evaluation and follow-up procedures outlined in the *Listing Manual*. In enhancing its market, the NYSE has determined to remove stocks that repeatedly fall below continued listing standards. The Commission believes that to uphold the quality of its market, it is reasonable for the NYSE to implement a procedure that allows it to abridge the follow-up procedure after it has evaluated a company's situation.

The Commission carefully considered the concerns expressed by the ICI and Jakarta in their letters opposing certain provisions of the proposal. The Commission believes that Amendment No. 1 ameliorates ICI and Jakarta's concerns regarding the unique characteristics of Funds and their susceptibility to market conditions by lowering the market capitalization continued listing requirement from $50,000,000 to $15,000,000. The Commission finds that the market capitalization standard codified by the Exchange in the proposal is a clear, nondiscriminatory standard that should promote transparency with respect to the Exchange's continued listing standards for Funds and is not inconsistent with the Act. The Commission believes that the proposed continued listing standard for Funds should promote certainty and accuracy in the continued listing process which should benefit investors and other market participants.

The Commission also carefully considered the concerns expressed by the NASD in its letter opposing the proposal. Without taking a position in this Order on the continued propriety of NYSE Rules 390 and 500, the Commission was not persuaded by the NASDA's contention that in light of those rules, a proposal such as the current one that could reduce the burden for companies to list on the NYSE is, by its nature, inappropriately anti-competitive.

The Commission believes the proposed revisions and codifications of the continued listing criteria should enhance investor protection by providing greater transparency in the continued listing process. This enhanced transparency should assist all market participants, including listed companies and investors, in better understanding the criteria necessary for a company to maintain its listing status on the NYSE. In addition, the Commission believes that the proposal provides the necessary flexibility to determine whether to continue to list an issuer, while ensuring that certain minimum standards must be met. Thus, the Commission believes that the proposed continued listing standards strike a reasonable balance between protecting investors and providing a marketplace for issuers, satisfying the requirement under the federal securities laws. The Commission notes that proposed changes to NYSE Rule 499 are intended to conform that rule to the changes proposed to the continued listing criteria in NYSE Rule 802.

The Commission finds good cause for approving proposed Amendments Nos. 1, 3, and 4 prior to the thirtieth day after the date of publication in the **Federal Register**. In response to commentors, Amendment No. 1 proposes to change the continued listing criteria currently in place under the Pilot for Funds by lowering the financial criteria for continued listing. The Commission believes that accelerating approval on this Amendment will alleviate potential confusion that could result if the 45 day period for bringing a Fund back to compliance with the Exchange's listing standards under the Pilot expires before the lower financial standards proposed in Amendment No. 1 are approved by the Commission.

Amendment No. 3 also aims to correct a problem the Exchange has experienced under the continued listing standards in place under the Pilot. Amendment No. 3 addresses the situation where a company has just held its annual meeting, but finds it necessary to call another meeting to address the problem of its stock price dropping below $1.00 per share for 30 consecutive trading days. Instead of requiring the increased costs and personnel efforts inherent in calling a special meeting of a company's shareholders, Amendment No. 3 proposes to allow the company to remedy the problem by the later of its next annual meeting or six months. The Commission notes that, notwithstanding this provision, the Exchange could delist such a company under the Exchange's discretionary delisting provision, thus ensuring investor protection.

Amendment No. 4 makes several technical corrections to the proposed rule language to eliminate inconsistencies that have developed over the course of the Commission's review of the proposal and amendments. The Commission believes approval of these changes must coincide with the Commission's approval of the other proposed changes to the NYSE's continued listing standards to eliminate discrepancies and conflicting provisions.

In addition, accelerated approval of these amendments will enable the Exchange to simultaneously make all relevant modifications to its *Listing Manual* and avoid any potential confusion due to recent rule revisions. Accordingly, the Commission believes that it is consistent with Section 6 of the

[25] The Commission notes that the Exchange's discretionary review is not limited by the numerical delisting criteria or the ''other'' criteria set forth in NYSE Rule 802.

Act[26] to accelerate approval of Amendments Nos. 1, 3, and 4.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1, 3, and 4, including whether the proposed amendments are 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 at the Commission's Public Reference Room. 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–99–29 and should be submitted by January 3, 2000.

VI. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–NYSE–99–29), as amended, relating to the NYSE's continued listing standards, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32064 Filed 12–9–99; 8:45 am]

BILLING CODE 8010–01–M

[26] 15 U.S.C. 78f.

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). 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.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collections would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of this publication. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed at the end of this publication.

1. Vocational Rehabilitation ''301'' Program Development—0960–0282. The information on Form SSA–4290 is used by the Social Security Administration (SSA) to determine an individual's continued entitlement to disability benefits when that individual has medically recovered while allegedly participating in a State or alternate Vocational Rehabilitation (VR) program. The respondents are State or alternate VR agencies serving such beneficiaries.

Number of Respondents: 8,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 2,000 hours.

2. Certificate of Election for Reduced Spouse's Benefits—0960–0398. SSA uses the information collected on Form SSA–25 to pay a qualified spouse who elects to receive a reduced benefit at an earlier age. The respondents are entitled spouses seeking reduced benefits.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 1,000 hours.

3. Statement of Funds You Provided to Another, Statement of Funds You Received—0960–0481. Forms SSA–2854 and SSA–2855 are used by SSA to collect information in situations where the SSI claimant alleges that money was borrowed on an informal basis from a noncommercial lender, e.g., a relative or friend, etc. These statements are completed by the borrower/claimant and the lender and are required to determine whether the proceeds from the transaction are/are not income to the borrower/claimant. If the transaction constitutes a bona fide loan, the proceeds are not income to the SSI borrower/claimant. The respondents are applicants for and recipients of SSI payments who borrow money on an informal (noncommercial) basis and individuals who lend money informally to SSI applicants and recipients.

Number of Respondents: 40,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 6,667 hours.

II. The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed at the end of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. Application for Wife's or Husband's Insurance Benefits—0960–0008. SSA uses the information collected on Form SSA–2–F6 to determine whether applicants (including those who are divorced) are entitled to wife's or husband's insurance benefits. The respondents are applicants for wife or husband's benefits (including those who are divorced).

Number of Respondents: 700,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 175,000 hours.

2. Application for Supplemental Security Income—0960–0229. SSA uses the information collected on Form SSA–8000–BK to determine the respondent's eligibility for, and amount of, SSI benefits. The respondents are applicants for SSI Benefits.

Number of Respondents: 1,002,773.

Frequency of response: 1.

Average Burden Per response: 35 minutes for paper application (3 percent of responses) 25 minutes for automated collection of information (97% of responses).

Estimated Annual Burden: 422,835 hours.

(SSA Address): Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

(OMB Address): Office of Management and Budget, OIRA, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503