

result, Rules 5000, 5100, 5400, 5500, 5600, 5700, 5800, and 5900 will be renumbered as 5001, 5101, 5401, 5501, 5601, 5701, 5801, and 5901 respectively.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general and with Section 6(b)(5) of the Act,⁵ in particular in that it is 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 regulating, clearing, settling, processing information with respect to, and 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. The proposed rule change is designed to bring consistency to the numbering and structure of certain rules, and to conform certain other rules to conventions already applied to other New Listing Rules. In addition, the proposed rule change corrects certain typographical errors inadvertently included when adopting the New Listing Rules.

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, as amended.

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

Because the foregoing 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) by its terms does not become operative for 30 days after the date of this 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)⁶ of the Act and

subparagraph (f)(6) of Rule 19b-4⁷ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)⁸ normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii),⁹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay will benefit the market and investors by making technical changes to conform the presentation of certain rules to be consistent to the conventions used in the New Listing Rules and correcting minor typographical errors, which should help to avoid confusion among Nasdaq's members and other market participants. For these reasons, the Commission designates the proposed rule change as operative upon filing.¹⁰

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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2009-052 on the subject line.

⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

¹⁰ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78(c)(f).

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2009-052. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2009-052 and should be submitted on or before July 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Elizabeth M. Murphy,
Secretary.

[FR Doc. E9-15904 Filed 7-6-09; 8:45 am]

BILLING CODE 8010-01-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS394]

WTO Dispute Settlement Proceeding Regarding China—Measures Related to the Exportation of Various Raw Materials

AGENCY: Office of the United States
Trade Representative.

¹¹ 17 CFR 200.30-3(a)(12).

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is providing notice that on June 23, 2009, in accordance with the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement"), the United States requested consultations regarding restraints on the export from China of various forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus, and zinc (the "materials"). That request may be found at <http://www.wto.org> contained in a document designated as WT/DS394/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 31, 2009 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted electronically to <http://www.regulations.gov>, docket number USTR-2009-0016. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Shubha Sastry, Assistant General Counsel, or Katherine Tai, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-6139 or (202) 395-9589.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States

On June 23, 2009, the United States requested consultations regarding China's restraints on the export from China of various forms of bauxite

("bauxite" includes but is not limited to items falling under the following HS numbers, as listed in Attachment 1 of Notice "2009 Export Licensing Management Commodities List" (Ministry of Commerce and General Administration of Customs, Notice (2008) No. 100, January 1, 2009) ("2009 Export Licensing List") and/or Table 7 of Notice Regarding the 2009 Tariff Implementation Program (State Council Tariff Policy Commission, shuiweihui (2008) No. 40, January 1, 2009) ("2009 Export Duty List"): 2508300000/25083000, 2606000000/26060000, 26204000, coke ("coke" includes but is not limited to items falling under the following HS numbers, as listed in the 2009 Export Licensing List and/or the 2009 Export Duty List: 2704001000/27040010), fluorspar ("fluorspar" includes but is not limited to items falling under the following HS numbers, as listed in the 2009 Export Licensing List and/or the 2009 Export Duty List: 2529210000/25292100, 2529220000/25292200), magnesium ("magnesium" includes but is not limited to items falling under the following HS numbers, as listed in the 2009 Export Licensing List and/or the 2009 Export Duty List: 81041100, 81041900, 81042000), manganese ("manganese" includes but is not limited to items falling under the following HS numbers, as listed in the 2009 Export Licensing List and/or the 2009 Export Duty List: 26020000, 8111001010/81110010, 8111001090/81110010), silicon carbide ("silicon carbide" includes but is not limited to items falling under the following HS numbers, as listed in the 2009 Export Licensing List and/or the 2009 Export Duty List: 2849200000, 3824909910), silicon metal ("silicon metal" includes but is not limited to items falling under the following HS numbers, as listed in the 2009 Export Licensing List and/or the 2009 Export Duty List: 28046900), yellow phosphorus ("yellow phosphorus" includes but is not limited to items falling under the following HS numbers, as listed in the 2009 Export Licensing List and/or the 2009 Export Duty List: 28047010), and zinc ("zinc" includes but is not limited to items falling under the following HS numbers, as listed in the 2009 Export Licensing List and/or the 2009 Export Duty List: 2608000001/26080000, 2608000090/26080000, 7901119000/79011190, 7901120000/79011200, 7901200000/79012000, 79020000, 26201100, 26201900).

These restraints include: Quantitative restrictions on the export of bauxite, coke, fluorspar, silicon carbide, and zinc; export duties on bauxite, coke,

fluorspar, magnesium, manganese, silicon metal, yellow phosphorus, and zinc; additional requirements and procedures (administered through China's ministries and other organizations under the State Council as well as chambers of commerce) in connection with the export of the materials, including, but not limited to, restricting the right to export based on, for example, prior export experience, establishing criteria that foreign-invested enterprises must satisfy in order to export that are different from those that domestic entities must satisfy, and requiring exporters to pay fees; and a minimum export price system for the materials and requiring the examination and approval of export contracts and export prices (administered through China's ministries and other organizations under the State Council as well as chambers of commerce).

USTR believes that these export restraints are inconsistent with China's obligations under Articles VIII, X, and XI of the *General Agreement on Tariffs and Trade 1994*; paragraphs 5.1, 5.2, 8.2, and 11.3 of Part I of the *Protocol on the Accession of the People's Republic of China* ("Accession Protocol"); and the provisions of paragraph 1.2 of Part I of the Accession Protocol (which incorporates commitments in paragraphs 83, 84, 162, and 165 of the *Report of the Working Party on the Accession of China*).

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to <http://www.regulations.gov>, docket number USTR-2009-0016. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via <http://www.regulations.gov>, enter docket number USTR-2009-0016 on the home page and click "go." The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notice" under "Document Type" on the left side of the search-results page, and click on the link entitled "Send a Comment or Submission." (For further information on using the <http://www.regulations.gov> Web site, please consult the resources provided on the Web site by clicking on "How To Use This Site" on the left side of the home page.)

The <http://www.regulations.gov> site provides the option of providing comments by filling in a "General Comments" field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type "See attached" in the "General Comments" field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "BUSINESS CONFIDENTIAL," at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov>. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

1. Must clearly so designate the information or advice;
2. Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and
3. Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov> or by fax. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-

confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR § 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to public inspection may be viewed on the <http://www.regulations.gov> Web site.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E9-15861 Filed 7-6-09; 8:45 am]

BILLING CODE 3190-W9-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for the use of foreign U-69 guard bars, Manganese Castings, Turnout braces, and weld kits in the Federal-aid construction project for the CREATE Project in Illinois.

DATES: The effective date of the waiver is July 8, 2009.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366-1562, or via e-mail at gerald.yakowenko@dot.gov. For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366-4928, or via e-mail at michael.harkins@dot.gov. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

The FHWA's Buy America regulations in 23 CFR 635.410 require a domestic

manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application of such requirements would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for the U-69 guard bars, Manganese Castings, Turnout braces, and weld kits for the CREATE project in Illinois.

In accordance with Division I, section 126 of the "Omnibus Appropriations Act, 2009" (Pub. L. 111-8), the FHWA published a notice of intent to issue a waiver on its Web site for the U-69 guard bars, Manganese Castings, Turnout braces, and weld kits (<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=33>) on May 20th. The FHWA received no comments in response to this notice, which suggested that the U-69 guard bars, Manganese Castings, Turnout braces, and weld kits may not be available domestically. During the 15-day comment period, the FHWA conducted an additional nationwide review to locate potential domestic manufacturers for the U-69 guard bars, Manganese Castings, Turnout braces, and weld kits. Based on all the information available to the agency, the FHWA concludes that there are no domestic manufacturers for the U-69 guard bars, Manganese Castings, Turnout braces, and weld kits. Thus, the FHWA concludes that a Buy America waiver is appropriate as provided by 23 CFR 635.410(c)(1).

In accordance with the provisions of section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the Illinois waiver page noted above.

Authority: 23 U.S.C. 313; Public Law 110-161, 23 CFR 635.410.

Issued on: June 26, 2009.

King W. Gee,

Associate Administrator for Infrastructure.

[FR Doc. E9-15854 Filed 7-6-09; 8:45 am]

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