

was published for notice and comment in the **Federal Register** on December 29, 2004.⁵ The Commission received no comments on the proposal.

This order approves the proposed rule change, as amended.

II. Description of the Proposal

Nasdaq proposes to adopt new Rule 4370 that would impose additional reporting requirements on Nasdaq should Nasdaq or an affiliate of Nasdaq (collectively, the "Nasdaq Affiliates" or "Nasdaq Affiliate")⁶ list a security on The Nasdaq Stock Market. In the event that a Nasdaq Affiliate lists a security on The Nasdaq Stock Market (the "Affiliate Security"), the proposed rule change would require Nasdaq to file a report with the Commission on a monthly basis detailing Nasdaq's monitoring of (1) the Nasdaq Affiliate's compliance with the provisions of the Rule 4200, 4300 and 4400 Series,⁷ and (2) the trading of the Affiliate Security, including summaries of all related surveillance alerts, complaints, regulatory referrals, trades cancelled or adjusted pursuant to NASD Rule 11890, investigations, examinations, formal and informal disciplinary actions, exception reports and trading data.

Nasdaq also would be required to notify the Commission at the same time it notifies the Nasdaq Affiliate if Nasdaq determines that the Nasdaq Affiliate was not in compliance with any of its listing standards. Nasdaq would be required to notify the Commission within five business days of its receipt of a plan of compliance from the Nasdaq Affiliate and advise the Commission on whether the plan of compliance was accepted by Nasdaq or what other action was taken with respect to the plan, and the time period provided to regain compliance with the Rule 4200, 4300 and 4400 Series, if any.

In addition, Nasdaq would be required to commission an annual review and report by an independent accounting firm of the compliance of the Affiliate Security with the Rule 4200, 4300 and 4400 Series. Nasdaq would be required to furnish promptly a copy of the report to the Commission.

clarifies and explains the proposed rule change. Amendment No. 3 was incorporated into the notice.

⁵ See Securities Exchange Act Release No. 50897 (December 21, 2004), 69 FR 78076.

⁶ The NASD currently would be considered a Nasdaq Affiliate for purposes of the proposed rule change.

⁷ These rules include quantitative (minimum bid price, number of round lot holders, number of publicly held shares, market value, etc.) and qualitative (concerning independent directors, audit committee, shareholder meetings, etc.) requirements for initial and continued inclusion of securities in The Nasdaq Stock Market, as well as issuer designation requirements.

Solely for the purposes of Rule 4370, Nasdaq proposes to exclude from the definition of "Affiliate Security" securities that meet the definition of "Portfolio Depository Receipts" under NASD Rule 4420(i)(1)(A) and "Index Fund Shares" under NASD Rule 4420(j)(1)(A).⁸

Nasdaq believes that the additional requirements contained in Rule 4370 would provide additional assurance that any securities listed on The Nasdaq Stock Market by a Nasdaq Affiliate comply with Nasdaq's listing standards on an on-going basis. Nasdaq believes that the proposed rule change would eliminate any perception of a potential conflict of interest if a Nasdaq Affiliate seeks to list a security on The Nasdaq Stock Market.

III. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change, as amended, and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁹ In particular, the Commission believes that the proposal, as amended, is consistent with Section 15A(b)(6) of the Act,¹⁰ which requires that an association's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and, in general, protect investors and the public interest. The Commission also finds that the proposed rule change, as amended, is consistent with Section 15A(b)(2) of the Act,¹¹ which requires a national securities association to be so organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the association.

The listing of an Affiliate Security on The Nasdaq Stock Market could potentially create a conflict of interest between the NASD's, Nasdaq's, and NASD Regulation, Inc.'s ("NASDR") regulatory responsibilities to vigorously oversee the listing and trading of an Affiliate Security on The Nasdaq Stock

⁸ These securities are types of exchange-traded funds ("ETFs").

⁹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78o-3(b)(6).

¹¹ 15 U.S.C. 78o-3(b)(2).

Market, and their own commercial or economic interests. Such "self-listing" may raise questions as to the NASD's, Nasdaq's, and NASDR's ability to independently and effectively enforce the Commission's and the NASD's rules against an affiliate of Nasdaq. In addition, such listing has the potential to exacerbate possible conflicts that may arise when these entities oversee competitors that may also be listed on The Nasdaq Stock Market.

The Commission believes that the proposed rule change, by requiring heightened reporting by Nasdaq to the Commission with respect to oversight of the listing and trading on The Nasdaq Stock Market of an Affiliate Security, will help protect against concerns that Nasdaq will not effectively enforce its rules with respect to the listing and trading of these securities. In addition, the requirement that an independent accounting firm review such issuer's compliance with Nasdaq's listing standards adds a degree of independent oversight to Nasdaq's regulation of the listing of these securities, which may mitigate any potential or actual conflicts of interest.¹²

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹³ that the proposed rule change (File No. SR-NASD-2004-169), as amended, be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. E5-512 Filed 2-7-05; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

¹² On December 8, 2004, the Commission published for comment a proposed rulemaking that would impose reporting and other requirements on a self-regulatory organization ("SRO") that chooses to list or trade its own securities, the securities of any trading facility, the securities of an affiliate of the SRO, or the securities of an affiliate of a trading facility of the SRO. Unlike the NASD's proposed rule change, the Commission's proposed rule would apply to investment companies that track an index, such as exchange-traded funds. See Securities Exchange Act Release No. 50699, 69 FR 71126 (December 8, 2004). The NASD would, of course, have to conform its rules to any rules the Commission may adopt in the future.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before March 10, 2005. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and

David_Rostker@omb.eop.gov, fax number 202-395-7285 Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, *jacqueline.white@sba.gov* (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: BusinessLINC Program.

Form No: N/A.

Frequency: On Occasion.

Description of Respondents: Small Business Owners.

Responses: 14.

Annual Burden: 448.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05-2444 Filed 2-7-05; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before March 10, 2005. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and

David_Rostker@omb.eop.gov, fax number 202-395-7285, Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, *jacqueline.white@sba.gov* (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: Secondary Participation Guaranty Agreement.

Form No: SBA 1086 and 1502.

Frequency: On occasion.

Description of Respondents: SBA Participating Lenders.

Responses: 14,000.

Annual Burden: 42,000.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05-2445 Filed 2-7-05; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before March 10, 2005. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for

review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and

David_Rostker@omb.eop.gov, fax number 202-395-7285, Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, *jacqueline.white@sba.gov*, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: Personal Financial Statement.

Form No: 413.

Frequency: On occasion.

Description of Respondents: Applicants for an SBA Loan.

Responses: 148,788.

Annual Burden: 223,182.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05-2446 Filed 2-7-05; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 4987]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will hold a meeting at the U.S. Department of State at 2201 C Street, NW., Washington, DC on February 17, 2005, at 10 a.m. The Commissioners will discuss public diplomacy issues with senior officials of the Department.

The Commission was reauthorized pursuant to Pub. L. 106-113 (H.R. 3194, Consolidated Appropriations Act, 2000). The U.S. Advisory Commission on Public Diplomacy is a bipartisan Presidentially appointed panel created by Congress in 1948 to provide oversight of U.S. Government activities intended to understand, inform and influence foreign publics. The Commission reports its findings and recommendations to the President, the Congress and the Secretary of State and the American people. Current Commission members include Barbara M. Barrett of Arizona, who is the Chairman; Harold Pachios of Maine; Ambassador Penne Percy Korth of Washington, DC; Ambassador Elizabeth Bagley of Washington, DC; Charles "Tre" Evers of Florida; Jay T. Snyder of New York; and Maria Sophia Aguirre of Washington, DC.