

- The text of IM-11890-2 would be amended to reflect the proposed use of panels of one or more members¹⁶ of the MORC for purposes of reviewing determinations under proposed NASD Rule 11890(a)(2)(C) that a transaction is not eligible for review.

- The rule would be amended to provide that adjudication of a complaint or an appeal is not required if the party submitting the complaint or appeal withdraws it prior to the notification of counterparties.

- The rule would be amended to provide that appeals are focused solely on trades to which the party submitting the appeal is a party. Thus, for example, if Broker A submits a complaint regarding two separate trades with Broker B and Broker C, the trades are broken, and Broker B appeals but Broker C does not, the appeal would focus solely on the trade between Broker A and Broker B.

- The rule currently provides that facsimile machines are the preferred method for submitting materials regarding clearly erroneous adjudications. Nasdaq proposes to amend the rule to provide that parties should use such telecommunications methods as are announced from time to time through an NASD Notice to Members or a Nasdaq Head Trader Alert. Pursuant to this change, Nasdaq proposes to make electronic mail the preferred method, and may, in the future, develop a web-based form for use in submitting complaints and appeals. In light of the upcoming retirement of the Nasdaq Workstation II Service, Nasdaq is also proposing to replace a reference to that service with a more general reference to Nasdaq telecommunications protocols.

- Cross references in the rule would be amended to reflect preferred NASD style, and references to the "Committee" would be replaced with references to the "MORC."

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,¹⁷ in general, and with Section 15A(b)(6) of the Act,¹⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

Nasdaq believes that the proposed rule change would provide market participants with clearer information about Nasdaq's requirements for filing a clearly erroneous petition. In Nasdaq's view, this in turn would ensure that Nasdaq staff and the MORC would have more complete information when adjudicating a clearly erroneous petition, and would also provide Nasdaq staff with clearer bases for rejecting clearly erroneous petitions that fail to provide complete information or that relate to transactions at prices sufficiently close to the inside market that they should not be deemed clearly erroneous.

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 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 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, as amended, 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-NASD-2004-009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-009. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. 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-NASD-2004-009 and should be submitted on or before June 16, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 5090]

30-Day Notice of Proposed Information Collection: Form Numbers DS-1950 and DS-5056, Department of State Application for Employment, OMB Control Number 1405-0139

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

¹⁶ *Id.*

¹⁷ 15 U.S.C. 78o-3.

¹⁸ 15 U.S.C. 78o-3(b)(6).

¹⁹ 17 CFR 200.30-3(a)(12).

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

• *Title of Information Collection:* Department of State Application for Employment.

• *OMB Control Number:* 1405-0139.

• *Type of Request:* Extension of a Currently Approved Collection.

• *Originating Office:* Bureau of Human Resources, Office of Recruitment, Examination, Employment (HR/REE).

• *Form Number:* DS-1950 and DS-5056.

• *Respondents:* U.S. Citizens seeking entry into the Department of State Foreign Service and individuals, sophomore through graduate level college and university students, seeking participation in the Department's student programs.

• *Estimated Number of Respondents:* 16,000.

• *Estimated Number of Responses:* 16,000.

• *Average Hours Per Response:* 0.5 hour.

• *Total Estimated Burden:* 8,000 hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Required to obtain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from May 26, 2005.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-4718. You may submit comments by any of the following methods:

• E-mail: Katherine_T._Astrich@omb.eop.gov. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

• Mail (paper, disk, or CD-ROM submissions): Office of Foreign Missions, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520.

• Fax: 202-395-6974.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Kevin M. Bennecoff, Bureau of Human Resources, Recruitment Division,

Student Programs, U.S. Department of State, Washington, DC 20520, who may be reached on 202-261-8869 or by e-mail at BennecoffKM@state.gov.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary to properly perform our functions.

• Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: The DS-1950 has been the primary form used by individuals to apply for certain excepted jobs at the Department of State, such as Foreign Service and student intern positions. We wish to continue to use this form to clarify interpretation of applicant responses and how applicants become aware of our program opportunities. The new electronic option mentioned in the 60-day package has been assigned the form number DS-5056.

Methodology: The computer-readable and online forms will be used by applicants for certain excepted service jobs at the Department of State, such as Student Programs and Foreign Service jobs. These programs generate approximately 16,000 applications per year. Data is necessary to determine qualifications, and selections, in accordance with Federal policies. The online version will be filled out and submitted through careers.state.gov.

Dated: April 15, 2005.

Ruben Torres,

Executive Director, Bureau of Human Resources, Department of State.

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice

announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 10, 2005. No comments were received.

DATES: Comments must be submitted on or before June 27, 2005.

FOR FURTHER INFORMATION CONTACT:

Kenneth Kline, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202-366-5744; FAX: 202-366-7901; or e-mail:

kenneth.kline@marad.dot.gov. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Application for Construction Reserve Fund and Annual Statements.

OMB Control Number: 2133-0032.

Type of Request: Extension of currently approved collection.

Affected Public: Owners or operators of vessels in the domestic or foreign commerce.

Forms: None.

Abstract: The collection consists of an application required for all citizens who own or operate vessels in the U.S. foreign or domestic commerce and desire tax benefits under the Construction Reserve Fund (CRF) program. The annual statement sets forth a detailed analysis of the status of the CRF when each income tax return is filed.

Annual Estimated Burden Hours: 153 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of