(''Nasdaq''). The Board states that moving the Security to Nasdaq better files with the Issuer's recent strategies and focus as a growth oriented, mortgage banking enterprise.

The Issuer stated in its application that it has met the requirements of Amex Rule l8 by complying with all applicable laws in the State of Maryland, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Issuer's application relates solely to the withdrawal of the Security from listing on the Amex and from registration under section 12(b) of the Act [3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before November 16, 2004, comment on the facts bearing upon whether the application has been made in accordance with the rules of the Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comment

- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–13485 or;

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 1–13485. This file number should be included on the subject line if e-mail is used. To help us 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/delist.shtml).* Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E4–2853 Filed 10–25–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of Ryder System, Inc. To Withdraw Its Common Stock, $.50 Par Value, From Listing and Registration on the Archipelago Exchange (a Facility of the Pacific Exchange, Inc.) File No. 1–04364

October 20, 2004.

On September 28, 2004, Ryder System, Inc., a Florida corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.50 par value (''Security''), from listing and registration on the Archipelago Exchange (''ArcaEx''), a facility of the Pacific Exchange, Inc. (''PCX'').

The Board of Directors of the Issuer approved a resolution on July 16, 2004, to withdraw the Issuer's Security from listing on the ArcaEx. The Issuer states that the reason for its decision to withdraw its Security from the ArcaEx is the historically modest trading activity, the annual expense, and administrative burden of trading on the ArcaEx. The Issuer states that the Security is currently listed, and will continue to list, on the New York Stock Exchange (''NYSE'').

The Issuer stated in its application that it has complied with applicable rules of the ArcaEx, including PCX Rule 5.4(b), by complying with all applicable laws in effect in the State of Florida and by providing the ArcaEx with the required documents governing the removal of securities from listing and registration on the ArcaEx. The Issuer's application relates solely to the withdrawal of the Security from listing on the ArcaEx and shall not affect its continued listing on the NYSE or its obligation to be registered under section 12(b) of the Act.[3]

Any interested person may, on or before November 16, 2004, comment on the facts bearing upon whether the application has been made in accordance with the rules of the ArcaEx, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–04364 or;

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 1–04364. This file number should be included on the subject line if e-mail is used. To help us 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/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. E4–2854 Filed 10–25–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26641; 812–13089]

Strong Capital Management, Inc., et al., Notice of Application and Temporary Order

October 20, 2004.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Temporary order and notice of application for relief under section 9(c)

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

of the Investment Company Act of 1940 (the ''1940 Act'').

SUMMARY: Applicants have received a temporary order exempting them from section 9(a) of the 1940 Act, with respect to injunctions contained in a consent order entered by the Supreme Court of the State of New York (''New York Supreme Court'') on October 20, 2004, until the earlier of October 20, 2006, or the date the Commission takes final action on the application for a permanent order. Applicants also have requested a permanent order.

Applicants:

Strong Capital Management, Inc. (''SCM'') and Strong Investments, Inc. (''SII,'' and together, the ''Applicants'').

Filing Date:

The application was filed on May 24, 2004.

Hearing or Notification of Hearing:

An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 15, 2004, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 100 Heritage Reserve, Menomonee Falls, Wisconsin 53051.

FOR FURTHER INFORMATION CONTACT: Todd F. Kuehl, Branch Chief, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a temporary order and a summary of the application. The complete application may be obtained for a fee by contacting the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. SCM, a Wisconsin corporation and a wholly owned subsidiary of Strong Financial Corporation (''SFC''), is registered as an investment adviser under the Investment Advisers Act of 1940. Richard S. Strong (''Mr. Strong''), a resident of Brookfield, Wisconsin, co-founded SCM in 1974. Mr. Strong beneficially owns more than 25% of the outstanding voting securities of SFC. SCM has approximately 1,000 employees, and serves as investment adviser to 27 registered open-end management investment companies, consisting of 71 portfolios (the ''Strong Funds''). SCM also serves as subadviser to four other registered open-end management investment companies (the ''Sub-Advised Funds''). SII, a Wisconsin corporation and a wholly owned subsidiary of SFC, is registered as a broker-dealer under the Securities Exchange Act of 1934. SII serves as principal underwriter to the Strong Funds.

2. On May 20, 2004, the Attorney General of the State of New York (''NYAG'') filed an action in the New York Supreme Court against Mr. Strong, the Applicants, and certain other persons (together, ''Strong Entities'') relating to market timing abuses involving the Strong Funds (the ''Complaint''). The Complaint alleges misconduct and fraudulent and deceptive acts and practices related to, among other matters: (1) SCM's express agreement to allow Canary Capital Partners hedge funds to market time certain Strong Funds and to trade improperly, while at the same time implementing procedures and policies to prevent other investors from market timing the Strong Funds; (2) the frequent and undisclosed trading of certain Strong Funds by Mr. Strong on behalf of himself, his family and his friends; (3) SCM's failure to disclose to the boards of directors of the Strong Funds (each, a ''Board,'' and together, the ''Boards'') and regulators the agreement relating to the Canary hedge funds and Mr. Strong's involvement in frequent trading; and (4) SII's facilitation of the violations of SCM by allowing the Canary hedge funds to execute frequent trades in the Strong Funds. The Applicants and the other Strong Entities have executed a consent to entry of the judgment by the New York Supreme Court (''Judgment''). The Judgment contains, among other things, permanent injunctions against Mr. Strong, the Applicants and the other Strong Entities (''Injunctions'').

3. On May 20, 2004, Mr. Strong, the Applicants and the other Strong Entities also submitted offers of settlement and consented to the entry by the Commission of an Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and Cease-and-Desist Orders Pursuant to Sections 15(b)(4), 15(b)(6), 15B(c)(4), 17A(c)(3) and 17A(c)(4)(C) of the Securities Exchange Act of 1934, sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940, and sections 9(b) and 9(f) of the Investment Company Act of 1940 relating to the same activities (''Commission Order'').[1] Under the Commission Order, the Strong Funds will operate in accordance with the following governance policies and practices:

a. No more than 25 percent of the members of each Board will be persons who either (a) were directors, officers or employees of SCM at any point during the preceding 10 years or (b) are interested persons, as defined in the 1940 Act, of the Strong Fund or of SCM. In the event that a Board fails to meet this requirement at any time due to the death, resignation, retirement or removal of any independent director, the independent directors will take such steps as may be necessary to bring the Board in compliance within a reasonable period of time.

b. No chairman of a Board will either (a) have been a director, officer or employee of SCM at any point during the preceding 10 years or (b) be an interested person, as defined in the 1940 Act, of a Strong Fund or of SCM or any fund advised by SCM.

c. Any person who acts as counsel to the independent directors of any Strong Fund will be an ''independent legal counsel'' as defined by rule 0–1 under the 1940 Act.

d. The Boards will maintain separate committees primarily dedicated to the oversight of the investment operations of particular categories of the Strong Funds. Persons who either (a) were directors, officers or employees of SCM at any point during the preceding 10 years or (b) are interested persons, as defined in the 1940 Act, of the Strong Funds or of SCM will not comprise a majority of, or serve as chairman of, any such committee. Each such committee will, among its duties, identify any compliance issues that are unique to the category of the Strong Funds under its review and work with the appropriate Board committees (*e.g.*, the Audit and Pricing Committee) to ensure that any such issues are properly addressed.

e. No action will be taken by a Board or by any committee thereof unless such action is approved by a majority of the members of the Board or of such committee, as the case may be, who are neither (i) persons who were directors,

[1] *In the Matter of Strong Capital Management, Inc.*, et al., Administrative Proceeding File No. 3–11498, Investment Advisers Act Release No. 2239 (May 20, 2004).

officers or employees of SCM at any point during the preceding 10 years nor (ii) interested persons, as defined in the 1940 Act, of the Strong Fund or of SCM. In the event that any action proposed to be taken by and approved by a vote of a majority of the independent Directors of a Strong Fund is not approved by the full Board, the Strong Fund will disclose such proposal and the related Board vote in its shareholder report for such period.

f. Commencing in 2005 and not less than every fifth calendar year thereafter, each Strong Fund will hold a meeting of shareholders at which the Board will be elected.

g. Each Strong Fund will designate a member of the independent administrative staff reporting to its Board as being responsible for assisting the Board and any of its committees in monitoring compliance by SCM with the federal securities laws, its fiduciary duties to fund shareholders and its Code of Ethics in all matters relevant to the operation of the investment company. The duties of this staff member will include reviewing all compliance reports furnished to the Board or its committees by SCM, attending meetings of SCM's Internal Compliance Controls Committee, serving as liaison between the Board and its committees and the Chief Compliance Officer of SCM, making such recommendations to the Board regarding SCM's compliance procedures as may appear advisable from time to time, and promptly reporting to the Board any material breach of fiduciary duty, breach of the Code of Ethics and/or violation of the federal securities laws of which he or she becomes aware in the course of carrying out his or her duties.

In addition, under the Commission Order, in relevant part,

a. SCM and SII shall retain, within 90 days of the date of entry of the Commission Order, the services of an Independent Compliance Consultant not unacceptable to the Commission and a majority of the independent directors of the Boards. The Independent Compliance Consultant's compensation and expenses shall be borne exclusively by SCM or its affiliates. SCM and SII shall require the Independent Compliance Consultant to conduct a comprehensive review of SCM's and SII's supervisory, compliance, and other policies and procedures designed to prevent and detect breaches of fiduciary duty, breaches of the Code of Ethics and federal securities law violations by SCM and SII and their employees. This review shall include, but shall not be limited to, a review of SCM's and SII's market timing controls across all areas of its business, a review of the Strong Funds' pricing practices that may make those funds vulnerable to market timing, and a review of the Strong Funds' utilization of short term trading fees and other controls for deterring excessive short term trading. SCM and SII shall cooperate fully with the Independent Compliance Consultant and shall provide the Independent Compliance Consultant with access to its files, books, records, and personnel as reasonably requested for the review.

b. SCM and SII shall require that, at the conclusion of the review, which in no event shall be more than 120 days after the date of entry of the Commission Order, the Independent Compliance Consultant shall submit a report to SCM, SII, the Boards, and the Commission. The report shall address the issues described above, and shall include a description of the review performed, the conclusions reached, the Independent Compliance Consultant's recommendations for changes in or improvements to policies and procedures of SCM, SII, and the Strong Funds, and a procedure for implementing the recommended changes in or improvements to SCM's and SII's policies and procedures.

c. SCM and SII shall adopt all recommendations with respect to SCM contained in the report of the Independent Compliance Consultant; provided, however, that within 150 days after the date of entry of the Commission Order, SCM and SII shall in writing advise the Independent Compliance Consultant, the Boards and the Commission of any recommendations that they consider to be unnecessary or inappropriate. With respect to any recommendation that SCM or SII consider unnecessary or inappropriate, SCM or SII need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure or system designed to achieve the same objective or purpose.

d. As to any recommendation with respect to SCM's (or SII's) policies and procedures on which SCM (or SII) and the Independent Compliance Consultant do not agree, such parties shall attempt in good faith to reach an agreement within 180 days of the date of entry of the Commission Order. In the event SCM (or SII) and the Independent Compliance Consultant are unable to agree on an alternative proposal acceptable to the Commission, SCM (or SII) will abide by the determinations of the Independent Compliance Consultant.

e. SCM and SII (i) shall not have the authority to terminate the Independent Compliance Consultant, without the prior written approval of a majority of the independent directors and the Commission; (ii) shall compensate the Independent Compliance Consultant, and persons engaged to assist the Independent Compliance Consultant, for services rendered pursuant to the Commission Order at their reasonable and customary rates; (iii) shall not be in and shall not have an attorney-client relationship with the Independent Compliance Consultant and shall not seek to invoke the attorney-client or any other doctrine or privilege to prevent the Independent Compliance Consultant from transmitting any information, reports, or documents to the Boards or the Commission.

f. SCM and SII shall require that the Independent Compliance Consultant, for the period of the engagement and for a period of two years from completion of the engagement, shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Mr. Strong, SCM, SII, Strong Investor Services, Inc. (''SIS'') or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any firm with which the Independent Compliance Consultant is affiliated in performance of his or her duties under the Commission Order shall not, without prior written consent of the independent directors and the Commission, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Mr. Strong, SCM, SII, SIS or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

g. SCM and SII have undertaken that, commencing in 2005, and at least once every other year thereafter, SCM and SII will undergo a compliance review by a third party, who is not an interested person, as defined in the 1940 Act, of SCM or SII. At the conclusion of the review, the third party shall issue a report of its findings and recommendations concerning SCM's and SII's supervisory, compliance, and other policies and procedures designed to prevent and detect breaches of fiduciary duty, breaches of the Code of Ethics and Federal securities law violations by SCM, SII and their employees in connection with their duties and activities on behalf of and related to the Strong Funds. Each such report shall be promptly delivered to SCM's Internal Compliance Controls

Committee and to the Audit Committee of each Board.

h. SCM undertakes to retain, within 30 days of the date of entry of the Commission Order, the services of an Independent Distribution Consultant not unacceptable to the Commission and the independent directors of the Strong Funds. The Independent Distribution Consultant's compensation and expenses shall be borne exclusively by SCM. SCM shall cooperate fully with the Independent Distribution Consultant and shall provide the Independent Distribution Consultant with access to its files, books, records, and personnel as reasonably requested for the review.

i. SCM shall require that the Independent Distribution Consultant develop a Distribution Plan for the distribution of all of the disgorgement and penalties provided for in the Commission Order, and any interest or earnings thereon, according to a methodology developed in consultation with SCM and acceptable to the Commission and the independent directors of the investment company. The Distribution Plan shall provide for investors to receive, in order of priority, (i) their proportionate share of losses from market-timing, and (ii) a proportionate share of advisory fees paid by Strong Funds that suffered such losses during the period of such market timing.

j. SCM shall require that the Independent Distribution Consultant submit a Distribution Plan to SCM and the Commission no more than 100 days after the date of entry of the Order. The Distribution Plan developed by the Independent Distribution Consultant shall be binding unless, within 130 days after the date of entry of the Commission Order, SCM or the Commission advises, in writing, the Independent Distribution Consultant of any determination or calculation from the Distribution Plan that it considers to be inappropriate and states in writing the reasons for considering such determination or calculation inappropriate. With respect to any determination or calculation with which SCM or the Commission do not agree, such parties shall attempt in good faith to reach an agreement within 160 days of the date of entry of the Commission Order. In the event that Mr. Strong or SCM and the Commission are unable to agree on an alternative determination or calculation, the determinations and calculations of the Independent Distribution Consultant shall be binding.

k. SCM shall require that, within 175 days of the date of entry of the Commission Order, the Independent Distribution Consultant submit the Distribution Plan for the administration and distribution of disgorgement and penalty funds pursuant to rule 1101 of the Commission's Rules of Practice. Following a Commission order approving a final plan of disgorgement, as provided in rule 1104 of the Commission's Rules of Practice, SCM shall require that the Independent Distribution Consultant, with SCM, take all necessary and appropriate steps to administer the final plan for distribution of disgorgement and penalty funds.

l. SCM shall require that the Independent Distribution Consultant, for the period of the engagement and for a period of two years from completion of the engagement, not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Mr. Strong, SCM, SII, and SIS, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. SCM shall require that any firm with which the Independent Distribution Consultant is affiliated in performance of his or her duties under the Commission Order not, without prior written consent of the independent Directors and the Commission, enter into any employment, consultant, attorney-client, auditing or other professional relationship with SCM or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

m. SCM, SII and SIS have undertaken that, no later than twenty-four months after the date of entry of the Commission Order, their chief executive officers shall certify to the Commission in writing that SCM, SII and SIS, respectively, have fully adopted and complied in all material respects with the undertakings set forth in the above paragraphs or, in the event of material non-adoption or non-compliance, shall describe such material non-adoption and non-compliance. For good cause shown, the Commission may extend any of the procedural dates set forth in the above paragraphs.

n. SCM and SII have undertaken to preserve for a period not less than six years from the end of the fiscal year last used, the first two years in an easily accessible place, any record of their compliance with the undertakings set forth in the above paragraphs.

Applicants' Legal Analysis

1. Section 9(a)(2) of the 1940 Act, in pertinent part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security from acting, among other things, as an investment adviser for a registered investment company or principal underwriter for any registered open-end investment company. Section 9(a)(3) of the 1940 Act extends the prohibitions of section 9(a)(2) to a company any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the 1940 Act defines an affiliated person to include, among others, any person directly or indirectly controlling, controlled by or under common control with, the other person. The Applicants state that, as a result of the Injunctions contained in the Judgment, the Applicants may be subject to the prohibitions of section 9(a).

2. The Applicants request a temporary and permanent order under section 9(c) of the 1940 Act exempting the Applicants from the disqualification provisions of section 9(a) of the 1940 Act with respect to the Injunctions to allow SCM to serve as investment adviser or sub-adviser to the Strong Funds, the Sub-Advised Funds and any other registered investment company, and SII to serve as principal underwriter to the Strong Funds and any other registered open-end investment company.[2] Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to the Applicants, are unduly or disproportionately severe or that the Applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the application.

3. The Applicants state that the prohibitions of section 9(a) as applied to the Applicants would be unduly and disproportionately severe. The Applicants state that the Judgment provides for a series of actions to be taken by the Applicants regarding the Strong Funds in connection with the Applicants' continued relationships with the Strong Funds. In settling their proceedings against the Applicants, neither the NYAG nor the Commission sought to bar the Applicants from providing advisory and distribution services to the Strong Funds or other registered investment companies.

4. The public interest and investor protection concerns underlying section

[2] The Applicants request that the relief also extend to any successors or assigns of the Applicants, to the extent that such successors or assigns may be subject to the Judgment.

9(a) of the 1940 Act are addressed by the measures the Applicants are required to undertake under the Settlements to ensure that the Applicants maintain a high level of compliance, ethics and corporate governance. The Applicants further state that, if they are barred under section 9(a) from providing investment advisory and distribution services to the Strong Funds and investment sub-advisory services to the Sub-Advised Funds, and are unable to obtain the requested exemption, the effect on their businesses and employees will be dramatic. The Applicants have committed substantial resources to establishing their businesses of advising and distributing mutual funds. The Applicants state that prohibiting them from providing advisory and distribution services to the Strong Funds and the Sub-Advised Funds would adversely affect not only the viability of the Applicants' businesses, but also the livelihoods of approximately 1,000 employees of the Applicants. For these reasons, the Applicants believe the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe.

5. The inability of the Applicants to continue providing advisory and distribution services to the Strong Funds, and to continue providing sub-advisory services to the Sub-Advised Funds, would also unnecessarily disrupt the Strong Funds and the Sub-Advised Funds, and operate to the detriment of the interests of those Funds and their shareholders. The Applicants believe that the policies and purposes that section 9(a) was intended to effect have been adequately addressed by the terms of the Commission Order and the Judgment, and through the continuing oversight of the Boards. The Boards have been actively working with the Applicants to address the matters that are the subject of these proceedings and to resolve them in the best interests of the Strong Funds and their shareholders. Application of the section 9(a) disqualifications would forestall the Boards' actions and responsibilities in this regard, as well as deprive shareholders of the Strong Funds and the Sub-Advised Funds of the investment advisory and other services provided by the Applicants—services which they selected in investing in the Strong Funds or the Sub-Advised Funds. The Applicants also believe that uncertainty resulting from a bar to the Applicants' serving the Strong Funds or the Sub-Advised Funds in an investment advisory, sub-advisory or distribution capacity might result in additional large redemptions of Fund shares and net outflows of cash to the detriment of remaining shareholders. This could adversely affect efforts to manage the Strong Funds' and the Sub-Advised Funds' assets in accordance with their stated principal investment strategies.

6. The Applicants state that, throughout the regulatory investigations, the Boards have been briefed at regular and special meetings regarding the results of SCM's internal investigation into frequent trading by Mr. Strong, Canary and others, and the status of the ongoing regulatory investigations. The Boards also have been apprised of and have contributed to SCM's efforts to strengthen its compliance regime. The Boards were involved in the retention of an independent consultant, and have received and discussed his compliance recommendations. In addition, the independent directors developed the position of independent president of the Strong Funds to serve as the Boards' on-site representative at SCM. Among the independent president's responsibilities are the monitoring of compliance functions by SCM, the implementation of the independent consultant's recommendations, and the review of the Strong Funds' performance, fees and sales. At the Boards' meeting on April 30, 2004, the directors unanimously voted to renew each of the Strong Funds' advisory and distribution contracts for an additional one-year period. As part of this renewal, SCM agreed to implement certain fee and/or expense reductions and to fund a contingent settlement escrow account for the benefit of the Strong Funds' shareholders. In addition, SCM committed to keep the Boards apprised regarding its search for a strategic partner and its ongoing efforts to strengthen SCM's compliance systems and implement the independent consultant's recommendations. SCM has also been in contact with the investment advisers and the boards of directors/trustees of the Sub-Advised Funds regarding the regulatory investigations and related matters.

7. The Applicants will, as soon as reasonably practicable, distribute written materials to and discuss the materials with, the Boards, including the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the 1940 Act, of the Strong Funds and their independent legal counsel, as defined in rule 0–1(a)(6) under the 1940 Act, regarding the Judgment, the Commission Order and the Wisconsin Order, their impact on the Strong Funds, and the application. Applicants will also distribute written materials to, and offer to discuss the materials with, the boards of directors/trustees of the Sub-Advised Funds, including the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the 1940 Act, of the Sub-Advised Funds and their independent legal counsel, as defined in rule 0–1(a)(6) under the 1940 Act, of the Sub-Advised Funds regarding the Judgment, the Commission Order and the Wisconsin Order, their impact on the Sub-Advised Funds, and the application. Applicants also undertake to provide the Boards and the boards of directors/trustees of the Sub-Advised Funds with all information concerning the Judgment, the Commission Order, the Wisconsin Order and the application that is necessary for the Strong Funds and the Sub-Advised Funds to fulfill their disclosure and other obligations under the federal securities laws.

Applicants' Conditions

The Applicants agree that any order granted by the Commission pursuant to the application will be subject to the following conditions:

1. Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, the Applicants, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the 1940 Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the 1940 Act in connection with the application.

2. The Applicants will comply with the terms and undertakings set forth in the Commission Order.

Temporary Order

The Commission has considered the matter and finds that the Applicants have made the necessary showing to justify granting the temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the 1940 Act, that the Applicants are granted a temporary exemption from the provisions of section 9(a) of the 1940 Act, effective forthwith, solely with respect to the Judgment, subject to the conditions in the application, until the date the Commission takes final action on their application for a permanent order or, if earlier, October 20, 2006.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–2842 Filed 10–25–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50573; File No. SR–NASD–2004–105]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. To Amend Rule 4350(n) and IM–4350–7 To Provide Time Frames for Foreign Issuers and Foreign Private Issuers To Disclose Certain Code of Conduct Waivers

October 20, 2004.

On July 8, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Rule 4350 and related Interpretive Material to set forth specific time frames within which non-U.S. issuers must disclose any waivers of their codes of conduct for directors or executive officers. On August 23, 2004, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on September 1, 2004.[4] The Commission received no comments on the proposal.

NASD Rule 4350(n) and Interpretive Material IM–4350–7 require issuers listed on Nasdaq to adopt codes of conduct that are applicable to all directors, officers and employees. Each code of conduct must require that any waiver of the code for executive officers or directors may be made only by the board of directors of the issuer and must be promptly disclosed to shareholders, along with the reasons for the waiver. The rule specifies that domestic issuers must disclose such waivers in a Form 8–K within five business days. The proposed rule change would amend the rule and interpretive material to specify that all issuers, other than foreign private issuers, must disclose such waivers in a Form 8–K within five business days, and to establish that foreign private issuers must disclose such waivers either in a Form 6–K or in the next Form 20–F or 40–F.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association,[5] and, in particular, the requirements of section 15A(b)(6) of the Act.[6] The Commission believes that the proposed method and timing for disclosure of waivers by foreign private issuers is consistent with rules of other exchanges concerning such waivers and with the requirements of the Commission concerning disclosure of waivers by a foreign private issuer for principal executive, financial and accounting officers. In addition, the Commission believes that the proposed rule change appropriately clarifies that non-U.S. issuers that are not foreign private issuers must meet the same disclosure requirements as domestic issuers.

It is therefore ordered, pursuant to section 19(b)(2) of the Act[7], that the proposed rule change, as amended, (File No. SR–NASD–2004–105) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50563; File No. SR–Phlx–2004–64]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Change in Weighting Methodology of the Phlx/KBW Bank Index

October 19, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 15, 2004, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I and II below, which Items have been prepared by the Exchange. The Exchange has filed the proposal as a ''non-controversial'' rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Phlx proposes to change the weighting methodology of the Phlx/KBW Bank Index (the ''Bank Index'' or ''Index''), an index developed by Keefe, Bruyette & Woods, Inc. (''KBW''), a registered broker-dealer that specialized in U.S. bank stocks, from capitalization-weighted to modified capitalization weighted. No other changes are being made to the Index. The Exchange seeks continued approval to list and trade options on the Index after it has instituted this change.

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 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

According to the Phlx, the purpose of the proposal is to change the weighting methodology of the Index from

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

[2] 17 CFR 240.19b–4.

[3] See letter from Mary M. Dunbar, Vice President and General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated August 20, 2004 (''Amendment No. 1'').

[4] See Securities Exchange Act Release No. 50267 (August 26, 2004), 69 FR 53478 (September 1, 2004).

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78o–3(b)(6).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Phlx provided the five day-pre-filing requirement but requested that the Commission waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).