

information with respect to, and facilitating transactions in securities, and to protect investors and the public interest. The proposed rule change will establish clear standards for determining when the obligation to report a cancelled trade is triggered, and thus it assists members in complying with the reporting obligation. The clear standards also will make it easier for the NASD to audit for compliance with the rule.

#### *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 does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and
- (iii) Become operative for 30 days from the date on which it was filed,<sup>10</sup> or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6)<sup>12</sup> thereunder.

At any time within 60 days of the filing of such 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.<sup>13</sup>

### **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](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2005-027 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-2005-027. 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-2005-027 and should be submitted on or before March 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 05-4293 Filed 3-4-05; 8:45 am]

**BILLING CODE 8010-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-51276; File No. SR-NYSE-2004-59]

#### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., To Adopt New Rule 401A ("Customer Complaints"), and an Amendment to Rule 476A ("Imposition of Fines for Minor Violations of Rules"), Adding Rule 401A to the List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A**

February 28, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 21, 2004, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by NYSE. 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**

Proposed new Exchange Rule 401A ("Customer Complaints") would require members and member organizations (the "Membership" or "Member Firms") to send acknowledgement of any customer complaint subject to the reporting requirements of Rule 351(d) within 15 business days of receiving such complaint, and to respond to the issues raised in such complaint within a reasonable period of time. The proposed corresponding amendment to Rule 476A ("Imposition of Fines for Minor Violations of Rules") would allow the Exchange to sanction the Membership's less serious violations of the acknowledgement provisions of proposed new Rule 401A pursuant to the minor fine provisions of Rule 476A. Below is the text of the proposed rule change. Proposed new language is *italicized*.

\* \* \* \* \*

#### *Rule 401A*

##### *Customer Complaints*

*(a) For every customer complaint they receive that is subject to the reporting requirements of Rule 351(d), members and member organizations must:*

<sup>10</sup> Nasdaq has provided the Commission the pre-filing notification as required by subparagraph (iii) of Rule 19b-4(f)(6), and intends to make the change operative 60 days after the date of filing.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

(1) Acknowledge receipt of the complaint within 15 business days of receiving it, and

(2) Respond to the issues raised in the complaint within a reasonable period of time.

(b) Each acknowledgement and response required by this rule must be conveyed to the complaining customer by appropriate method:

(1) Acknowledgements and responses to written complaints must be either:

(i) In writing, mailed to the complaining customer's last known address, or

(ii) Electronically transmitted to the e-mail address from which the complaint was sent (method only permissible for electronically transmitted complaints).

(2) Acknowledgements and responses to verbal complaints must be either:

(i) In writing, mailed to the complaining customer's last known address, or

(ii) Made verbally to the complaining customer, and recorded in a log of verbal acknowledgements and responses to customer complaints.

(c) Written records of the acknowledgements, responses, and logs required by this rule must be retained in accordance with Rule 440 ("Books and Records").

\* \* \* \* \*

#### Rule 476A

Imposition of Fines for Minor Violation of Rules

(Rule 476A (a) through (e) unchanged)

Supplementary Material: List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A

\* \* \* \* \*

Rule 387 requirements for customer COD/POD transactions

Rule 392 notification requirements  
Failure to acknowledge customer complaint within 15 business days, as required by Rule 401A

Rule 407 requirements for transactions of employees of the Exchange, members or member organizations

Rule 407A reporting and notification requirements for members

\* \* \* \* \*

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE 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. NYSE 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

*Background.* NYSE Rule 351 ("Reporting Requirements") specifies several occurrences, incidents, and periodic information that the Membership must report to the Exchange. NYSE Rule 351(d) requires the Membership to report to the Exchange statistical information regarding specified verbal and written customer complaints.<sup>3</sup> Each complaint is classified by product and category, and attributed to a registered representative and branch office. The Exchange collects, aggregates, and analyzes these statistics to identify and monitor regulatory problems, focus its field examinations of Member Firms, identify content for its qualification examinations, and modify its continuing education programs. However, there is currently no NYSE rule requiring the Membership to respond to, or even acknowledge, such complaints. Recent Exchange examinations revealed several instances in which Member Firms did not, in fact, respond to or acknowledge customer complaints.

##### 2. Statutory Basis

Proposed new Rule 401A and the corresponding amendment to NYSE Rule 476A are consistent with the requirements of Section 6(b)(5)<sup>4</sup> of the Exchange Act, which requires that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest in that it improves customer relations, supervision of registered representatives, early detection of potential regulatory problems, prevention of future securities violations, identification of issues requiring more thorough coverage in continuing education programs, and oversight of the Membership. The proposed rule change is also consistent with Section 6(b)(6)<sup>5</sup> of the Exchange

<sup>3</sup> NYSE Information Memo No. 03-38, dated September 19, 2003, specifies that "[a]ll complaints, regardless of how delivered (oral, written, e-mail or fax), are required to be reported to the Exchange."

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 15 U.S.C. 78f(b)(6).

Act, which requires the rules of the Exchange to provide for its members and persons associated with its members to be appropriately disciplined for violations of those rules through fitting sanctions, including the imposition of fines.

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

The Exchange believes that the proposal does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange 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 proposal 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2004-59 in 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-NYSE-2004-59. This file number should be included on the

subject line of 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. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE.

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 submission should refer to File Number SR-NYSE-2004-59 and should be submitted on or before March 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. E5-915 Filed 3-4-05; 8:45 am]

**BILLING CODE 8010-01-P**

## SMALL BUSINESS ADMINISTRATION

[License No. 09/79-0432]

### Telesoft Partners II SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Telesoft Partners II SBIC, L.P., 1450 Fashion Island Blvd., Suite 610, San Mateo, CA 94404, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and § 107.730, Financialings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Telesoft Partners II SBIC, L.P. proposes to provide equity/debt security financing to LogLogic, Inc. The financing is contemplated for working capital and general corporate purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Telesoft Partners II QP, L.P., Telesoft Partners II, L.P. and Telesoft NP Employee Fund, LLC, all Associates of Telesoft Partners II SBIC, L.P., own more than ten percent of LogLogic, Inc.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: February 14, 2005.

**Jaime Guzman-Fournier,**  
*Acting Associate Administrator for Investment.*

[FR Doc. 05-4319 Filed 3-4-05; 8:45 am]

**BILLING CODE 8025-01-P**

## SMALL BUSINESS ADMINISTRATION

### Public Federal Regulatory Enforcement Fairness Hearing; Region V Regulatory Fairness Board

The Small Business Administration Region V Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Thursday, March 24, 2005 at 8:30 a.m. at the Marion County Public Library at Glendale Mall, 6101 N. Keystone Avenue, Indianapolis, IN 46220, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Francine Protogere in writing or by fax, in order to be put on the agenda. Francine Protogere, District Counsel, SBA Indiana District Office, 429 N. Pennsylvania Street, Suite 100, Indianapolis, IN 46204, phone (317) 226-7272 Ext. 270, fax (317) 226-7259, e-mail: [Francine.Protogere@sba.gov](mailto:Francine.Protogere@sba.gov).

For more information, see our Web site at <http://www.sba.gov/ombudsman>.

Dated: February 28, 2005.

**Peter Sorum,**  
*Senior Advisor, Office of the National Ombudsman.*

[FR Doc. 05-4320 Filed 3-4-05; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF STATE

[Public Notice 5008]

### Notice Convening an Accountability Review Board for the November 24, 2004 Murder of Mr. James C. Mollen, an Employee of the U.S. Embassy in Baghdad, Iraq

Pursuant to Section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended (22 U.S.C. 4831 *et seq.*), I have determined that the November 24, 2004 shooting death of Mr. James C. Mollen, an employee of the U.S. Embassy in Baghdad, Iraq, involved loss of life at or related to a U.S. mission abroad. Therefore, I am convening an Accountability Review Board, as required by that statute, to examine the facts and the circumstances of the attack and to report to me such findings and recommendations as it deems appropriate, in keeping with the attached mandate.

I have appointed Edward G. Lanpher, a retired U.S. ambassador, as Chair of the Board. He will be assisted by M. Bart Flaherty, Frederick Mecke, Mike Absher, Laurie Tracy and by Executive Secretary to the Board, Bruce Thomas. They bring to their deliberations distinguished backgrounds in government service and/or in the private sector.

The Board will submit its conclusions and recommendations to me within 60 days of its first meeting, unless the Chair determines a need for additional time. Appropriate action will be taken and reports submitted to Congress on any recommendations made by the Board.

Anyone with information relevant to the Board's examination of this incident should contact the Board promptly at (202) 203-7149 or send a fax to the Board at (202) 203-7143.

This notice shall be published in the **Federal Register**.

Dated: February 28, 2005.

**Condoleezza Rice,**  
*Secretary of State, Department of State.*

[FR Doc. 05-4358 Filed 3-4-05; 8:45 am]

**BILLING CODE 4710-35-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[OST Docket No. 2005-20490]

### Air Carrier Access Act Aircraft Inspection and Certification Initiative

**AGENCY:** Office of the Secretary, Department of Transportation (DOT).

<sup>6</sup> 17 CFR 200.30-3(a)(12).