

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, 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-NYSE-2008-113 and should be submitted on or before November 28, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of a Proposed Rule Change

The Commission finds that the proposed rule change, to extend the pilot program for two months, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁹ In particular, it is consistent with Section 6(b)(4) of the Act,¹⁰ which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other parties using its facilities, and Section 6(b)(5) of the Act,¹¹ which requires, among other things, that the rules of a national securities exchange be designed 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission also finds that the proposed rule change is consistent with the provisions of Section 6(b)(8) of the

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. 78f(b)(4).

¹¹ 15 U.S.C. 78f(b)(5).

Act,¹² which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Finally, the Commission finds that the proposed rule change is consistent with Rule 603(a) of Regulation NMS,¹³ adopted under Section 11A(c)(1) of the Act, which requires an exclusive processor that distributes information with respect to quotations for or transactions in an NMS stock to do so on terms that are fair and reasonable and that are not unreasonably discriminatory.¹⁴

The Commission approved the fee for NYSE Realtime Reference Prices for a pilot period which runs until October 31, 2008.¹⁵ The Commission approved the fee for NYSE Realtime Reference Prices for a pilot period which runs until October 31, 2008. The Commission notes that the Exchange proposes to extend the pilot program for two months. The Exchange proposes no other changes to the existing pilot program.

On June 4, 2008, the Commission approved for public comment a draft approval order that sets forth a market-based approach for analyzing proposals by self-regulatory organizations to impose fees for "non-core" market data products that would encompass the NYSE Realtime Reference Prices.¹⁶ The Commission believes that the proposal is consistent with the Act for the reasons noted preliminarily in the Draft Approval Order. Pending review by the Commission of comments received on the Draft Approval Order, and final Commission action thereon, the Commission believes that approving NYSE's proposal to extend the pilot program that imposes a fee for NYSE Realtime Reference Prices for two months would be beneficial to investors and in the public interest, in that it should result in increased broad public dissemination of real-time pricing information. The broader approach ultimately taken by the Commission

¹² 15 U.S.C. 78f(b)(8).

¹³ 17 CFR 242.603(a).

¹⁴ NYSE is an exclusive processor of its last sale data under Section 3(a)(22)(B) of the Act, 15 U.S.C. 78c(a)(22)(B), which defines an exclusive processor as, among other things, an exchange that distributes data on an exclusive basis on its own behalf.

¹⁵ See *supra* note 3. NYSE subsequently reduced the flat monthly fee for NYSE Realtime Reference Prices from \$100,000 per month to \$70,000 per month. See Securities Exchange Act Release No. 58443 (August 29, 2008), 73 FR 52436 (September 9, 2008) (SR-NYSE-2008-79).

¹⁶ See Securities Exchange Act Release No. 57917 (June 4, 2008), 73 FR 32751 (June 10, 2008) (Notice of Proposed Order Approving Proposal by NYSE Arca, Inc. to Establish Fees for Certain Market Data and Request for Comment) ("Draft Approval Order").

with respect to non-core market data fees will necessarily guide Commission action regarding fees for the NYSE Realtime Reference Prices beyond the pilot period.

The Commission finds good cause for approving the proposed rule change before the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Accelerating approval of this proposal should benefit investors by facilitating their access to widespread, free, real-time pricing information contained in the NYSE Realtime Reference Prices. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹⁷ to approve the proposed rule change on an accelerated basis to extend the operation of the pilot until December 31, 2008, while the Commission analyzes comments on the Draft Approval Order.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSE-2008-113) is hereby approved on an accelerated basis until December 31, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Florence E. Harmon,
Acting Secretary.

[FR Doc. E8-26482 Filed 11-5-08; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6423]

In the Matter of the Review of the Designation of the Basque Fatherland and Liberty, the National Liberation Army, the Islamic Resistance Movement, Hizballah, the Popular Front for the Liberation of Palestine—GC, the Kurdistan Workers Party, the Abu Sayyaf Group, and All Associated Aliases as Foreign Terrorist Organizations Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Records assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the 2003 re-designations of the aforementioned organizations as foreign terrorist organizations have not changed

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

in such a manner as to warrant revocation of the designations and that the national security of the United States does not warrant a revocation.

Therefore, I hereby determine that the designation of the aforementioned organizations as foreign terrorist organizations, pursuant to Section 219 of the Immigration and Nationality Act, as amended (8 U.S.C. 1189), shall be maintained.

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

Dated: October 29, 2008.

John D. Negroponte,

Deputy Secretary of State.

[FR Doc. E8-26496 Filed 11-5-08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2008-0289]

Filing Requirements of 49 U.S.C. 14123—the Motor Carrier Financial and Operating Statistics Program (the Annual Form M Filing); Application for Exemption From Swift Transportation, Corporation

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application by Swift Transportation Corporation (Swift Transportation) regarding an exemption to the annual reporting requirements of 49 CFR 369.1. Swift Transportation is requesting the exemption on the basis that disclosing this information to the public would be likely to cause it substantial competitive harm.

DATES: Comments received on or before November 17, 2008.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2008—by any of the following methods:

- **Web Site:** <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- **Federal Rulemaking Portal:** Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building

Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- **Fax:** 1-202-493-2251.

Instructions: All submissions must include the Agency name and the docket ID for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140, DOT Building on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FMDS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476; Apr. 11, 2000). This information is also available at <http://docketsinfo.dot.gov>.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site and also at the DOT's <http://docketsinfo.dot.gov> Web site. If you want confirmation of receipt of your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Rhonda Scott, Office of Information

Technology, IT Operations Division, (202) 366-4134; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Section 14123 of Title 49 of the United States Code (U.S.C. Section 14123) requires FMCSA to collect from certain for-hire Motor Carriers Annual Financial and Safety reports. The Statute provides FMCSA the authority to exempt upon good cause any party from the reporting requirements. The implementing regulations are found at 49 CFR part 369. In accordance with 49 C.F.R. Section 369.9(e)(1), a request for an exemption must be posted in the **Federal Register**. The Agency must provide the public with an opportunity to comment on the request.

Any request for an exemption must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available.

Swift Transportation's Application for Exemption

On December 14, 2007, Swift Transportation applied for an exemption from 49 CFR 369.9 requesting to be exempt from disclosing confidential business information to the public on the basis that Swift Transportation is a privately held corporation and that disclosure of this information would result in competitive harm. A copy of the request is in the public docket identified at the beginning of this notice.

Request for Comments

FMCSA seeks comments on whether Swift Transportation request for an exemption from public disclosure of information otherwise required to be reported to FMCSA pursuant to 49 U.S.C. 14123 and 49 CFR 369.1. Comments should specifically address whether public disclosure of the information sought to be redacted by Swift Transportation would be likely to cause substantial harm to the carrier's competitive position.

Dated: October 27, 2008.

Rose A. McMurray,

Acting Administrator.

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