

consolidated tape.”²⁸ This commenter states: “Because the noncompliant company list and BC indicator give no further detail about the company’s infraction or degree of noncompliance, investors may assume that a company is in danger of being delisted when only a relatively minor infraction exists.”²⁹

The Commission believes that it is not unreasonable for the NYSE to require a company that is listed on its facility to notify the Exchange when it becomes aware that it is out of compliance with the Exchange’s listing standards. With respect to the concern that the BC indicator provides no details about the reasons why the BC indicator was appended to the company’s stock symbol, the NYSE’s Web site provides the reason why a company has been placed on the non-compliant list.³⁰

Finally, the Commission believes that the technical and other minor changes in the proposal improve and add to the clarity of the Exchange’s corporate governance listing rules.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³¹ that the proposed rule change (SR-NYSE-2009-89), as amended, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61008; File No. SR-NASDAQ-2009-094]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Require That Companies Provide Nasdaq With at least Ten Minutes Prior Notification When Releasing Material Information and Eliminate a Potential Inconsistency With Commission Guidance on the Use of Company Websites To Satisfy Public Disclosure Requirements

Correction

In notice document E9-27998 beginning on page 61186 in the issue of Monday, November 23, 2009, make the following correction:

On page 61186, in the second column, the docket number is corrected to read as set forth above.

[FR Doc. Z9-27998 Filed 12-03-09; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS394]

WTO Dispute Settlement Proceeding Regarding China—Measures Related to the Exportation of Various Raw Materials

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that on November 4, 2009, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (“WTO Agreement”), the United States requested that the WTO Dispute Settlement Body establish a dispute settlement panel to review the U.S. claims concerning restraints on the export from China of various forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus, and zinc (the “materials”). That request may be found at <http://www.wto.org> contained in a document designated as WT/DS394/7. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings,

comments should be submitted on or before January 19, 2010 to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to <http://www.regulations.gov>, docket number USTR-2009-0016. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Shubha Sastry, Assistant General Counsel, or Katherine Tai, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-6139 or (202) 395-9589.

SUPPLEMENTARY INFORMATION: Pursuant to Section 127(b) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)(1)), USTR is providing notice that the United States has requested the WTO Dispute Settlement Body to establish a dispute settlement panel pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”). Such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within approximately nine months after it is established.

Major Issues Raised by the United States

China imposes restraints on the export from China of various forms of bauxite (“bauxite” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes, as listed in Attachment 1 of Notice “2009 Export Licensing Management Commodities List” (Ministry of Commerce and General Administration of Customs, Notice (2008) No. 100, January 1, 2009) (“2009 Export Licensing List”) and/or the following eight-digit HS numbers as listed in Table 7 of Notice Regarding the 2009 Tariff Implementation Program (State Council Tariff Policy Commission, *shuiweihui* (2008) No. 40, January 1, 2009) (“2009 Export Duty List”): 2508300000/25083000, 2606000000/26060000, 26204000), coke (“coke” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List:

²⁸ See Davis Polk Letter.

²⁹ *Id.*

³⁰ See <http://www.nyse.com/regulation/nyse/bcindex.html>. The Web site lists companies that are non-compliant with the Exchange’s corporate governance listing standards separately from those non-compliant with other standards, and states: “A noncompliant issuer is added to the list seven business days after the NYSE notifies the issuer of the deficiency; if the noncompliance results from a death or illness of a director, the issuer is added to the list six months after the event. An issuer is removed from the list one business day after the NYSE determines that the issuer is in compliance with NYSE corporate governance listing standards.” The reason why a company is on the list can be seen via a link entitled, “View more information on issuers noncompliant with NYSE corporate governance standards.”

³¹ 15 U.S.C. 78s(b)(2).

³² 17 CFR 200.30-3(a)(12).