

requiring that the independent directors of a listed company oversee executive compensation matters, consider uniform independence criteria before hiring Compensation Advisers, and have the authority to supervise, retain and compensate these advisers. By implementing Section 10C in such a manner, the proposed amended rule does not allow listed companies to avoid the listing standards by not having a specific compensation committee or another committee that performs similar functions.

The proposed rule change is non-discriminatory and is applicable to all listed companies on the Exchange, unless specifically exempted under proposed Rule 15.5(a) and 15.5(d)(5)(e). The Exchange believes that the general exemptions from the proposed requirements that it is granting to foreign private issuers and smaller reporting companies are consistent with Section 10C and Rule 10C-1, for the reasons stated above in the "Purpose" section, including because (i) Rule 10C-1(b)(5)(ii) explicitly exempts smaller reporting companies and (ii) foreign private issuers will comply with their home country law and, if they avail themselves of the exemption, will be required to disclose that fact under existing Exchange listing requirements. The Exchange believes it is an appropriate use of its exemptive authority under Exchange Act Rule 10C-1(b)(5)(i), and that it is not unfairly discriminatory under Section 6(b)(5) of the Act, to provide general exemptions under the proposed rules to issuers whose only listed class of equity securities on the Exchange is a preferred stock, as holders of listed preferred stock have significantly greater protections with respect to their rights to receive dividends and a liquidation preference upon dissolution of the issuer, and preferred stocks are typically regarded by investors as a fixed income investment comparable to debt securities, the issuers of which are exempt from compliance with Exchange Act Rule 10C-1. The Exchange believes that it is an appropriate use of its exemptive authority under Rule 10C-1(b)(5)(i), and that it is not unfairly discriminatory under Section 6(b)(5) of the Act, to provide general exemptions under the proposed rules for all of the other categories of issuers that are not currently subject to the Exchange's compensation committee requirement, for the structural reasons discussed in the "Purpose" section and because it would be a significant and unnecessarily burdensome alteration in their governance structures to require

them to comply with the proposed new requirements.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 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 the 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 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NSX-2012-15 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSX-2012-15. This file number should be included on the subject line if email 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 Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-NSX-2012-15, and should be submitted on or before November 7, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Kevin M. O'Neill**,  
Deputy Secretary.

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BILLING CODE 8011-01-P

### **OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

[Dispute No. WTO/DS450]

#### **WTO Dispute Settlement Proceeding Regarding China—Certain Measures Affecting the Automobile and Automobile-Parts Industries**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (AUSTRO) is providing notice that on September 17, 2012, the United States requested consultations with the People's Republic of China ("China") under the *Marrakesh Agreement Establishing the World Trade Organization* ("WTO Agreement") concerning certain measures that appear to provide subsidies such as grants, loans, forgone government revenue, the provision of goods and services, and other incentives contingent upon export performance to

<sup>21</sup> 17 CFR 200.30-3(a)(12).

automobile and automobile-parts enterprises in China. These measures appear to be prohibited subsidies that are inconsistent with China's obligations under Article 3 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement"). In addition, it appears that China has failed to comply with its transparency obligations under the WTO Agreement. The consultation request may be found at [www.wto.org](http://www.wto.org) contained in a document designated as WT/DS450/1. 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 November 12, 2012, to be assured of timely consideration by USTR.

**ADDRESSES:** Public comments should be submitted electronically to [www.regulations.gov](http://www.regulations.gov), docket number USTR-2012-0030. If you are unable to provide submissions by [www.regulations.gov](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:** Robert Anderson, Assistant General Counsel, or Shannon Nestor, Assistant General Counsel, (202) 395-3150, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508.

**SUPPLEMENTARY INFORMATION:** USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

### Major Issues Raised by the United States

On September 17, 2012, the United States requested consultations with China concerning certain subsidies that appear to be contingent upon export performance provided to automobile and automobile-parts enterprises in China. Specifically, the United States is challenging various forms of export-

contingent subsidies that China appears to provide through a program establishing "export bases" for the automobile and automobile-parts industries within China. China appears to provide export-contingent subsidies to the automobile and automobile-parts enterprises that are located in these "export bases" or that are designated as "export base" enterprises. To date, it appears that China has created automobile and automobile-parts "export bases" in the following twelve municipalities: Wuhan, Tianjin, Chongqing, Shanghai, Guangzhou, Hefei, Wuhu, Xiamen, Taizhou, Changchun, Baoding, Liuzhou, as well as in other localities in the provinces of Jiangsu, Shandong, Shanxi, Henan, Inner Mongolia, Heilongjiang, Liaoning, Hunan, Zhejiang, Yunnan, Guangdong, Fujian, Anhui, and Beijing city.

In its request for consultations, the United States identified measures that appear to provide the subsidies through China's automobile and automobile-parts "export bases" that include, but are not limited to, the following legal instruments, operating separately or collectively, as well as any amendments, or related, successor, replacement, or implementing measures: Policy on Development of Automotive Industry; Policies for Automobile Trade; Notice Regarding Application for National Automobile and Automobile Parts Export Base Enterprises; Circular of the State Council on Printing, Distributing and Implementing Several Supporting Policies for the Outline of National Medium- and Long-Term Science and Technology Development Plan (2006-2020); Circular of the General Office of the State Council on Forwarding the Several Opinions of MOFCOM and other Departments on the 11th FYP for Electromechanical Exports Growth Model; Decision To Designate 8 National Automobile and Automobile Parts Export Bases, MOFCOM; MOFCOM, NDRC Names 160 Companies as National Export Base Enterprises; Interim Measures on the Management of Fund for Optimizing Import and Export Structure of Electromechanical and High-Tech Products, Ministry of Commerce and Ministry of Finance; MOFCOM, NDRC Conference Notice on National Automobile Exports; Notice of MOFCOM and NDRC on Issuing the Measures for the Administration of National Export Bases of Automobiles and Parts and Components (for Trial Implementation); Opinions on Maintaining the Steady Growth of Foreign Trade; 2009 State Council

General Office Notice on Automobile Industry Restructuring and Revitalization Planning (for planning period 2009-2011); Notice on Implementation of Online Application for the Central Foreign Trade Development Fund; Opinions of MOFCOM, NDRC, MIIT, MOF, Customs and AQSIQ on Enhancing the Sustainable and Healthy Development of the Export of Automobile Products of China; Notice of Examination Results of the National Automobile and Automobile Parts Export Bases; Opinions on Promoting the Continued Healthy Development of Electromechanical Exports During the 12th Five-Year Plan; Notice of MOFCOM and NDRC on Issuing the Measures for the Administration of National Export Bases of Automobiles and Parts and Components (Revised Draft); MOFCOM, NDRC Accreditation and Assessment of Automobiles and Automobile Parts Export Bases (Draft for Comment); MOF and MOFCOM Notice Regarding Sound Management of the 2011 Foreign Trade Common Services Platform Establishment Fund; MOF and MOFCOM Notice Regarding the Sound Management of the 2010 Common Services Platform Establishment Fund; MOF Notice Regarding Arranging the 2011 Foreign Trade Common Services Platform Establishment Fund; MOFCOM and MOF Notice on Management of Funds To Maintain the Steady Growth of Foreign Trade; Wuhan Automobile and Automobile Parts Status Report and Development Plan (2006-2010); Wuhan Municipal Opinion on Automobile and Automobile Parts Exports; Tianjin Outline of Eleventh Five-Year Plan of Economic and Social Development; Circular of Tianjin Commerce Commission on Printing and Distributing the Measures for the Recognition and Management of Tianjin Automobile and Automobile Parts Export Base Enterprises; Tianjin Notice on the Adjustment of Members of Tianjin National Automobile and Automobile Parts Export Bases; Forwarding the Opinions on Accelerating the Construction of Tianjin National Automobile and Automobile Parts Export Base; Chongqing City Management of Automobile and Automobile Parts Export Base Enterprises; Opinions of the Chongqing Municipal People's Government on the Construction of Automobile and Automobile Parts Export Base; Chongqing Circular on Establishment of a Leading Group for the Construction of Chongqing Automobile and Automobile Parts Export Bases; Chongqing 2011

Notice Regarding the Application Work for the 2011 Chongqing Foreign Trade Common Services Platform Establishment Special Fund Program; Shanghai Foreign Economic and Trade Development “Eleventh Five-Year Plan”; Shanghai Municipal Commission of Commerce and the Municipal Finance Bureau 2012 Notice for the Application of the 2011 Shanghai Foreign Trade Common Services Platform Establishment Special Fund Program; Printing and Issuing the Work Plan for the Application of Guangzhou for National Automobile and Automobile Parts Export Base and Export Base Enterprises; Opinions on Accelerating the Construction of National Automobile and Automobile Parts Export Base in Guangzhou; Interim Measures for the Management of National Automobile and Automobile Parts Export Base Guangzhou Sub-Base (Valid for 5 years or until 2013); Circular of Guangzhou Foreign Trade and Economic Cooperation Bureau on Verifying Conghua City as the Guangzhou Conghua National Automobile and Automobile Parts Export Base; 2011 Circular of Application for Special Fund of Guangzhou Automobile and Automobile Parts Export Base; 2011 Circular of Application for Special Fund of Guangzhou Automobile and Automobile Parts Export Base Attachment One: Application Form for the Guangzhou Municipal Automobile and Automobile Parts Export Base Dedicated Funding Project; 2011 Circular of Application for Special Fund of Guangzhou Automobile and Automobile Parts Export Base Attachment Two: Feasibility Analysis Report for the Guangzhou Municipal Automobile and Automobile Parts Export Base Dedicated Funding Project (Reference Sample); Guangdong Province 2011 Notice Regarding the Work To Manage Well the Foreign Trade Common Services Platform Establishment Fund; Notice on Hefei City Automobile and Automobile Parts Export Base Support Fund Management Method (Interim Measures); Anhui Notice Regarding Investigation of Received Applications for National Automobile and Automobile Parts Export Base and Enterprises; Anhui Regarding Applications for Electro-mechanical Product Imports and Exports Structure Fund Program; Anhui Province Opinions Regarding Expediting Equipment Manufacturing; Xiamen Municipal Notice on Automobile Industry Development Action Plan; Notice of Xiamen on the Management of Special Funds To Maintain Steady Growth of Foreign

Trade (Trial Implementation); Notice of Xiamen on the Management of Electromechanical and High-Tech Products Export Adjustment Programs; Xiamen City 2001 Notice on the Issuance of the Interim Measures on Management of Outsourcing Services Common Services Platform Special Construction Fund; Taizhou Municipal Opinions on the Promotion of Stable and Healthily Developing Foreign Trade; Opinions From the Peoples Government of Zhejiang Province on Promoting the Stable and Healthy Development of Province-Wide Foreign Trade; Zhejiang Notice on the Management of the 2011 Foreign Trade Common Services Platform Construction Special Fund; Liuzhou Municipal Opinion on Encouraging Exports of Automobile and Automobile Parts; Guangxi Zhuang Autonomous Region Policy Opinion To Support the Development of the Automobile Industry; Reply of the Economic Commission of Guangxi Zhang Autonomous Region on Approving the Registration of Automotive Chassis Core Parts Technological Upgrading and Export Base Construction Project of Liuzhou Wuling Automobile United Development Co., Ltd.; Notice on Management of Special Funds To Maintain the Steady Growth of Foreign Trade (Jilin); Changchun Xinglong Comprehensive Bonded Zone Automobile Import/Export Base Project; Jilin Province Opinion on Automobiles and Automobile Parts Exports; Jilin Province Opinion on Accelerating the Development of Automobile Parts; Jilin Province Management and Implementation Measures on Funds To Maintain Steady Growth of Foreign Trade; Jilin Province Notification for Organizations To Apply for the 2011 Foreign Common Services Platform Establishment Fund; Hebei Province Opinion on Broadening Opening to the Outside World To Accelerate the Development of Open Economy; Hebei Province 2011 Notice Regarding Sound Management of the Foreign Trade Common Services Platform Establishment Fund; Notice on Jiangsu Province Export Base Support Methods; Jiangsu Province Interim Measures on Management of Funds To Maintain a Steady Growth of Foreign Trade; Circular on the Pilot Accreditation and Management of Shandong Province Electro-Mechanical Products Export Bases and Notice To Begin the Accreditation of the First Batch of Export Bases; Shanxi Province Management Measures on Special Funds To Maintain Steady Growth of Foreign Trade; 2012 Inner Mongolia

Autonomous Region Work Plan for the Establishment of Electro-Mechanical and High-Tech Industry Export Base; Henan Province Opinion To Promote the Sustained and Healthy Development of Foreign Trade; 2009 Heilongjiang Province Opinion To Further Sustain the Stable Growth of Foreign Trade; Measures Administering, Operating, Funding or Specifying the Forms of Support Provided to Automobile or Automobile Parts Enterprises Within Any Automobile and Automobile Parts Export Base; and Measures Administering, Operating, Funding or Specifying the Forms of Support Provided to Automobile or Automobile Parts Enterprises in Jiangsu, Shandong, Anhui, Jiangxi, Liaoning, Heilongjiang, Hunan, Inner Mongolia, Shanxi, Zhejiang, Yunnan, Guangdong, Hebei, Fujian, Henan provinces, and Beijing City.

In addition, it appears that China has failed to comply with its transparency obligations in regards to these export-contingent subsidies. In particular, the United States has explained that the measures appear to be inconsistent with Articles 3, 25.1, 25.2, 25.3, and 25.4 of the SCM Agreement; Article XVI:1 of the *General Agreement on Tariffs and Trade 1994*; and Paragraphs 1.2, 2(C)(1), and 2(C)(2) of Part I of the *Protocol on the Accession of the People's Republic of China*.

#### **Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to [www.regulations.gov](http://www.regulations.gov) docket number USTR–2012–0030. If you are unable to provide submissions by [www.regulations.gov](http://www.regulations.gov), please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via [www.regulations.gov](http://www.regulations.gov), enter docket number USTR–2012–0030 on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Comment Now!” (For further information on using the [www.regulations.gov](http://www.regulations.gov) Web site, please consult the resources provided on the Web site by clicking on “How to Use Regulations.gov” on the bottom of the page.)

The [www.regulations.gov](http://www.regulations.gov) site provides the option of providing

comments by filling in a "Type Comments" field or by attaching a document using an "upload file" field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type "See attached" in the "Type Comments" field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. § 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding accessible to the public at [www.regulations.gov](http://www.regulations.gov), docket number USTR-2012-0030.

The public file will include non-confidential comments received by USTR from the public with respect to the dispute. If a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S.

submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute, will be made available to the public on USTR's Web site at [www.ustr.gov](http://www.ustr.gov), and the report of the panel, and, if applicable, the report of the Appellate Body, will be available on the Web site of the World Trade Organization, [www.wto.org](http://www.wto.org). Comments open to public inspection may be viewed on the [www.regulations.gov](http://www.regulations.gov) Web site.

**Juan Millan,**

*Acting Assistant United States Trade Representative for Monitoring and Enforcement.*

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**BILLING CODE 3290-F3-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### **Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending October 6, 2012**

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT-OST-2012-0164.

*Date Filed:* October 1, 2012.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* October 22, 2012.

*Description:* Application of K5-Aviation GmbH requesting an exemption and a foreign air carrier permit authorizing K5-Aviation to engage in: (i) Foreign charter air transportation of persons, property, and mail from any point or points behind any Member State of the European Union, via any point or points in any EU Member State and via intermediate points, to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons, property, and mail between any point or

points in the United States and any point or points in any member of the European Common Aviation Area; (iii) foreign charter air transportation of cargo between any point or points in the United States and any other point or points; (iv) other charters pursuant to the prior approval requirements set forth in the Department's regulations governing charters; and (v) charter transportation authorized by any additional route rights made available to European Union carriers in the future, to the extent permitted by the Applicant's homeland license on file with the Department.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. 2012-25513 Filed 10-16-12; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35638]

#### **New Jersey Transit Corporation—Acquisition Exemption—Norfolk Southern Railway Company**

The New Jersey Transit Corporation (NJ Transit), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Norfolk Southern Railway Company (NSR) an approximately 1.3-mile portion of the property commonly known as the "Orange Industrial Track" in Essex County, N.J., from milepost 8.616 to milepost 9.905 (the Line). NJ Transit states that, under the proposed transaction, NSR would transfer to NJ Transit the real property and railroad fixtures associated with the Line. According to NJ Transit, NSR will retain an exclusive operating easement to continue to provide freight rail service over the Line.<sup>1</sup>

NJ Transit states the proposed transaction has been agreed upon pursuant to an Exchange Agreement, Quitclaim Deed, Second Operating Agreement, and Trackage Rights Agreement by and between NJ Transit and NSR. According to NJ Transit, it is acquiring the property to ensure access to a maintenance facility to support its light rail operations, and it is not acquiring any freight operating rights. NJ Transit also states that the agreement

<sup>1</sup> A motion to dismiss this notice of exemption on the grounds that the transaction does not require authorization from the Board was concurrently filed with this notice of exemption. The motion to dismiss will be addressed in a subsequent Board decision.