Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (v) the requirement that members purchasing Shares from the Fund for resale to investors deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information. In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to those investors. The Information Circular will also discuss any exemptive, no-action, or interpretive relief granted by the Commission from any rules under the Exchange Act; will reference that the Fund is subject to various fees and expenses; and will disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares.

(6) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 [23] under the Exchange Act.

(7) The Fund may not concentrate its investments (*i.e.*, invest more than 25% of the value of its net assets) in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government or its agencies or instrumentalities.

(8) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities or other illiquid assets (calculated at the time of investment), including Rule 144A securities. The Fund will not use futures for speculative purposes, nor will the Fund invest in OTC equities or enter into futures contracts that are not traded on a U.S. exchange.

(9) The Fund's investments will be consistent with the Fund's investment objective.

(10) The Fund may utilize instruments or investment techniques that have a leveraging effect on the Fund. Any instance of effective leverage will be covered in accordance with guidance promulgated by the Commission and its staff.

(11) The Fund does not presently intend to engage in any form of borrowing for investment purposes, and it will not be operated as a ''leveraged ETF''—*i.e.*, it will not be operated in a manner designed to seek a multiple of the performance of an underlying reference index.

(12) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [24] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[25] that the proposed rule change (SR–NASDAQ–2015–085), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Brent J. Fields,

Secretary.

[FR Doc. 2015–24060 Filed 9–22–15; 8:45 am]

BILLING CODE 8011–01–P

[23] *See* 17 CFR 240.10A–3.

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Southern District of New York, entered February 2, 2015, the United States Small Business Administration hereby revokes the license of WAV, L.P., a Delaware Limited Partnership, to function as a small business investment company under the Small Business Investment Company License No. 02720569 issued to WAV, L.P., on November 1, 1996, and said license is hereby declared null and void as of February 2, 2015.

United States Small Business Administration.

Dated: September 17, 2015.

Javier E. Saade,

Associate Administrator for Investment.

[FR Doc. 2015–24112 Filed 9–22–15; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2014–0080]

Social Security Acquiescence Ruling (AR) 15–1(4), Radford v. Colvin: Standard for Meeting the Listing for Disorders of the Spine With Evidence of Nerve Root Compression

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling (AR).

SUMMARY: This Social Security AR explains how we will apply a holding in a decision of the United States Court of Appeals for the Fourth Circuit that we determined conflicts with our interpretation of the section in the Listing of Impairments (the Listings) that addresses disorders of the spine with evidence of nerve root compression.

DATES: *Effective:* September 23, 2015.

FOR FURTHER INFORMATION CONTACT: Gabriel Deadwyler, Office of the General Counsel, Office of Program Law, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–8775, or TTY 410–966–5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: We are publishing this Social Security AR in accordance with 20 CFR 402.35(b)(2), 404.985(a), (b), and 416.1485(a), (b) to explain how we will apply a holding in *Radford* v. *Colvin,* 734 F.3d 288 (4th Cir. 2013), regarding the standard for meeting section 1.04A of the Listings, which addresses disorders of the spine with evidence of nerve root compression.

An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the court of appeals' decision as explained in this AR to claims at all levels of administrative review within the Fourth Circuit. We will apply this AR to all determinations or decisions made on or after September 23, 2015. If we made a determination or decision on an application for benefits between October 29, 2013, the date of the court of appeals' decision, and September 23,

2015, the effective date of this AR, the claimant may request that we apply the AR to the prior determination or decision. The claimant must show, pursuant to 20 CFR 404.985(b)(2) or 416.1485(b)(2), that applying the AR could change our prior determination or decision in his or her case.

When we received this precedential court of appeals' decision and determined that an AR might be required, we began to identify those claims that were pending before the agency within the circuit that might be subject to readjudication if we subsequently issued an AR. Because we have determined that an AR is required and are publishing this AR, we will send a notice to those individuals whose claims we have identified. In the notice, we will provide information about the AR and the right to request readjudication under the AR. However, a claimant does not need to receive a notice in order to request that we apply this AR to our prior determination or decision on his or her claim, as provided in 20 CFR 404.985(b)(2) and 416.1485(b)(2).

If we later rescind this AR as obsolete, we will publish a notice in the **Federal Register** to that effect, as provided in 20 CFR 404.985(e) and 416.1485(e). If we decide to relitigate the issue covered by this AR, as provided by 20 CFR 404.985(c)and 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

Dated: April 9, 2015.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

ACQUIESCENCE RULING 15–1(4)

Radford v. Colvin, 734 F.3d 288 (4th Cir. 2013): Standard for Meeting Section 1.04A of the Listing of Impairments—Disorders of the Spine with Evidence of Nerve Root Compression—Titles II and XVI of the Social Security Act.

ISSUE: Must all of the medical criteria in section 1.04A of the Listing of Impairments be simultaneously present on examination and continue, or be expected to continue, to be simultaneously present for at least 12 months for a disorder of the spine to meet the listing?

STATUTE/REGULATION/RULING CITATION: Sections 205(b), 223(d)(1)(A); 223(d)(2)(A); 223(d)(5)(A); 1614(a)(3)(A); 1614(a)(3)(B); 1614(a)(3)(H)(i) of the Social Security Act (42 U.S.C. 423(d)(1)(A); 423(d)(2)(A); 423(d)(5)(A); 1382c(a)(3)(A); 1382c(a)(3)(B); 1382c(a)(3)(H)(i)); 20 CFR 404.1509, 404.1520(a)(4)(iii), 404.1520(d), 404.1525, 416.909, 416.920(a)(4)(iii), 416.920(d); 416.925; 20 CFR part 404, subpart P, Appendix 1, 1.04A.

CIRCUIT: Fourth (Maryland, North Carolina, South Carolina, Virginia, and West Virginia).

APPLICABILITY OF RULING: This ruling applies to determinations or decisions made in the Fourth Circuit at all levels of administrative review.

DESCRIPTION OF CASE: Jimmy Radford injured his back at work in December 2002 and underwent decompression and fusion surgery in August 2007. The administrative record included reports of examinations by various physicians and other medical sources. These reports over a five-year period showed the presence of all the medical criteria listed in listing 1.04A (20 CFR part 404, subpart P, Appendix 1, 1.04A), but did not show them simultaneously for a 12-month period. Mr. Radford applied for disability insurance benefits in June 2007. After a hearing, an administrative law judge (ALJ) found that Mr. Radford's impairments did not meet or medically equal any listed impairment, including listing 1.04. The ALJ noted that the State agency physicians who evaluated Mr. Radford's claim initially and on reconsideration had also concluded that Mr. Radford's impairments did not meet or equal the requirements of a listing. The ALJ found that Mr. Radford was not disabled at the fifth step of our sequential evaluation process at any time from his alleged onset date in December 2002 through his date last insured of December 31, 2007.

Mr. Radford sought judicial review in the United States District Court for the Eastern District of North Carolina. The district court found that listing 1.04A required only that his spinal stenosis be ''characterized by'' certain clinical signs and symptoms and held that the listing did not require that all of the clinical signs or symptoms be documented as present simultaneously. The district court found that Mr. Radford had shown evidence of each of the required criteria and that the ALJ did not correctly apply the regulations. The district court further held that the evidence compelled the conclusion that Mr. Radford's impairment met listing 1.04A and ordered an award of benefits.

The Commissioner appealed the district court's decision to the United States Court of Appeals for the Fourth Circuit. The court of appeals held that the district court did not err in interpreting listing 1.04A, but it vacated the district court's judgment because the decision to direct an award of benefits was an abuse of discretion. The court found that the text of listing 1.04A required evidence of nerve root compression ''characterized by'' the listed medical criteria and that the use of the word ''and'' to connect them meant that they all must be present in the claimant. The court stated that the text of the regulation did not specify when the medical criteria must be present and did not say that they must be present at the same time or that they must be present within a certain proximity of one another. Thus, the court held that the regulatory structure did not require the simultaneous presence of all of the listed criteria over a 12-month period. Rather, the listing required a ''more free-form, contextual inquiry that makes 12 months the relevant metric for assessment of the claimant's duration of disability.'' 734 F.3d at 293. Accordingly, the court of appeals held that ''Listing 1.04A requires a claimant to show only . . . that each of the symptoms are present, and that the claimant has suffered or can be expected to suffer from nerve root compression continuously for at least 12 months.'' *Id.* at 294. The court further held that a ''claimant need not show that each symptom was present at precisely the same time—*i.e.,* simultaneously—in order to establish the chronic nature of his condition. Nor need a claimant show that the symptoms were present in the claimant in particularly close proximity.'' *Id.*

Although the court of appeals held that the Commissioner's interpretation of listing 1.04A was not correct, the court nevertheless vacated the district court's judgment because the court should have remanded the case with instructions for the ALJ to clarify why Mr. Radford's impairment did not satisfy listing 1.04A.

STATEMENT AS TO HOW *RADFORD* DIFFERS FROM THE AGENCY'S POLICY: At step three of the sequential evaluation process, we will find a claimant disabled if the claimant has an impairment that meets or equals one of the listed impairments and meets the duration requirement. 20 CFR 404.1520(a)(4)(iii), 404.1525(c)(3), 416.920(a)(4)(iii), 416.925(c)(3). Thus, in considering whether an impairment meets or equals a listed impairment, we consider both the severity of the impairment, in light of the set of medical criteria in the listing, and the duration requirement.

Claimants found disabled under the listings at step three of the sequential evaluation process have impairments that we consider severe enough to prevent any gainful activity, regardless of the claimant's age, education, or work experience. Our policy is that listing 1.04A specifies a level of severity that is only met when all of the medical criteria listed in paragraph A are simultaneously present: (1) Neuro-anatomic distribution of pain, (2) limitation of motion of the spine, (3) motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss, and, (4) if there is involvement of the lower back, positive straight-leg raising test (sitting and supine). Listing 1.04A uses the conjunction ''and'' when enumerating the medical criteria in order to establish that the entire set of criteria must be present at the same time on examination. When this set of criteria is present on examination, the individual has the clinical presentation we expect from a person who suffers from nerve root compression that is so severe that it would preclude any gainful activity. 20 CFR 404.1525(a), 416.925(a).

On the other hand, when the listing criteria are scattered over time, wax and wane, or are present on one examination but absent on another, the individual's nerve root compression would not rise to the level of severity required by listing 1.04A. An individual who shows only some of the criteria on examination presents a different, less severe clinical picture than someone with the full set of criteria present simultaneously. To meet the severity required by the listing, our policy requires the simultaneous presence of all of the medical criteria in listing 1.04A.

In addition to meeting the severity requirement, in order to meet the duration requirement, the simultaneous presence of all of the medical criteria in paragraph A must continue, or be expected to continue, for a continuous period of at least 12 months. 20 CFR 404.1525(c)(4), 416.925(c)(4). The ''duration'' requirement follows from two provisions in the Social Security Act. First, sections 223(d)(1)(A) and 1614(a)(3)(A) of the Act define ''disability'' as an inability ''to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.'' Second, sections 223(d)(2)(A) and 1614(a)(3)(B) of the Act state that ''[a]n individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy. . . .'' Thus, an impairment that lasts or is expected to last 12 months is not sufficient to establish disability. The impairment must also be severe enough to prevent the claimant from engaging in substantial gainful work. As the Supreme Court of the United States explained in *Barnhart* v. *Walton,* 535 U.S. 212, 218 (2002): ''In other words, the statute, in the two provisions, specifies that the 'impairment' must last 12 months and also be severe enough to prevent the claimant from engaging in any 'substantial gainful work.' ''

Accordingly, our policy requires that for a disorder of the spine to meet listing 1.04A at step three in the sequential evaluation process, the claimant must establish the simultaneous presence of all the medical criteria in paragraph A. Once this level of severity is established, the claimant must also show that this level of severity continued, or is expected to continue, for a continuous period of at least 12 months.

The court of appeals' decision differs from our policy because it held that listing 1.04A required a claimant to show only ''that each of the symptoms are present, and that the claimant has suffered or can be expected to suffer from nerve root compression continuously for at least 12 months.'' 734 F.3d at 294. Contrary to our policy that the requisite level of severity requires the simultaneous presence of all the medical criteria in paragraph A, the court of appeals held that a claimant need not show that each criterion was present simultaneously or in particularly close proximity. Accordingly, this holding is inconsistent with our interpretation of listing 1.04A and of the severity and durational requirements at step three of the sequential evaluation process.

EXPLANATION OF HOW WE WILL APPLY *RADFORD* WITHIN THE CIRCUIT: This Ruling applies only to claims in which the claimant resides in Maryland, North Carolina, South Carolina, Virginia, or West Virginia at the time of the determination or decision at any level of administrative review.

In these States, in deciding whether a claimant's severe medically determinable disorder of the spine meets listing 1.04A, adjudicators will not require that all of the medical criteria in paragraph A appear simultaneously or in particularly close proximity. Rather, adjudicators will engage in what the court of appeals described as ''a more free-form, contextual inquiry that makes 12 months the relevant metric for the assessment of the claimant's duration of disability.''

Adjudicators will decide whether the evidence shows that all of the medical criteria in paragraph A are present within a continuous 12-month period (or, if there is less than 12 months of evidence in the record, that all the medical criteria are present and are expected to continue to be present). If all of the medical criteria are not present within a continuous 12-month period, adjudicators will determine that the disorder of the spine did not meet the listing.

If all of the medical criteria in paragraph A are present within a continuous 12-month period (or are expected to be present), adjudicators will then determine whether the evidence shows—as a whole—that the claimant's disorder of the spine caused, or is expected to cause, nerve root compression continuously for at least 12 months. In considering the severity of the nerve root compression, the medical criteria in paragraph A need not all be present simultaneously, nor in particularly close proximity. The nerve root compression must be severe enough, however, that the adjudicator can fairly conclude that it is still characterized by all of the medical criteria in paragraph A.

[FR Doc. 2015–24204 Filed 9–22–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 9281]

Defense Trade Advisory Group; Notice of Open Meeting

SUMMARY: The Defense Trade Advisory Group (DTAG) will meet in open session from 1 p.m. until 5 p.m. on Thursday, October 29, 2015 at 1777 F Street, NW., Washington, DC Entry and registration will begin at 12:30 p.m. The membership of this advisory committee consists of private sector defense trade representatives, appointed by the Assistant Secretary of State for Political-Military Affairs, who advise the Department on policies, regulations, and technical issues affecting defense trade. The purpose of the meeting will be to discuss current defense trade issues and topics for further study.