

NASDAQ assesses a monthly fee for distributors of NASDAQ Basic in addition to applicable monthly per user fees. Currently, each Distributor of NASDAQ Basic for NASDAQ-listed stocks currently pays a monthly fee of \$1,500 for either internal or external distribution, each Distributor of NASDAQ Basic for NYSE-listed stocks pays a monthly fee of \$250 for internal distribution or \$625 for external distribution, and each Distributor of NASDAQ Basic for Alternext-listed stocks pays a monthly fee of \$250 for internal distribution or \$625 for external distribution. In addition, each Distributor that receives Direct Access to the NASDAQ Basic pays a monthly fee of \$2,000 for NASDAQ-listed stocks, \$1,000 for NYSE-listed stocks, and \$1,000 for Alternext-listed stocks.

NASDAQ proposes to reduce the distribution fees for NASDAQ Basic. First, NASDAQ proposes to make all three feeds available for a single monthly Distributor Fee of \$1,500, rather than add separate fees for NYSE- and Alternext-listed securities. Second, NASDAQ proposes to eliminate the fee for Direct Access to NASDAQ Basic, currently set forth in Rule 7047(b). Finally, NASDAQ proposes to credit each Distributor of NASDAQ Basic up to \$1,500 per month based upon that Distributor's monthly usage fees. For example, a Distributor that reports \$1,500 or more of monthly usage of NASDAQ Basic will pay no net Distributor Fee, whereas a Distributor that reports \$1,000 of monthly usage will pay a net of \$500 for the Distributor Fee.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁵ In particular, it is consistent with Section 6(b)(4) of the Act,⁶ 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,⁷ 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 Act,⁸ 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,⁹ 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.¹⁰

This proposal would reduce the distribution fees for NASDAQ Basic by charging a single monthly Distributor Fee of \$1,500 for all three NASDAQ Basic feeds, eliminating the fee for Direct Access to NASDAQ Basic, and providing a credit to each Distributor of NASDAQ Basic up to \$1,500 per month based upon that Distributor's monthly usage fees. The Commission has reviewed the proposal using the approach set forth in the NYSE Arca Order for non-core market data fees.¹¹ The Commission recently found that NASDAQ was subject to competitive forces in setting fees for NASDAQ Basic in the Pilot Approval Order.¹² There are a variety of alternative sources of information that impose significant competitive pressures on NASDAQ in setting the terms for distributing NASDAQ Basic. The Commission believes that the availability of those alternatives, as well as NASDAQ's compelling need to attract order flow, imposed significant competitive pressure on NASDAQ to act equitably,

⁸ 15 U.S.C. 78f(b)(6).

⁹ 17 CFR 242.603(a).

¹⁰ NASDAQ is an exclusive processor of NASDAQ Basic 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 information with respect to quotations or transactions on an exclusive basis on its own behalf.

¹¹ See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21) ("NYSE Arca Order"). In the NYSE Arca Order, the Commission describes the competitive factors that apply to non-core market data products. The Commission hereby incorporates by reference the data and analysis from the NYSE Arca Order into this order.

¹² See Pilot Approval Order, *supra* note 4.

fairly, and reasonably in setting the terms of its proposal.

Because NASDAQ was subject to significant competitive forces in setting the terms of the proposal, the Commission will approve the proposal in the absence of a substantial countervailing basis to find that its terms nevertheless fail to meet an applicable requirement of the Act or the rules thereunder. An analysis of the proposal does not provide such a basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-NASDAQ-2009-028), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,
Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice: 6632]

Title: 60-Day Notice of Proposed Information Collection: Form DS-3097, Exchange Visitor Program Annual Report, and OMB Control Number 1405-0151

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Exchange Visitor Program Annual Report.
- *OMB Control Number:* 1405-0151.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, Office of Private Sector Exchange, ECA/EC.
- *Form Number:* Form DS-3097.
- *Respondents:* Designated J-1 program sponsors.
- *Estimated Number of Respondents:* 1,460.
- *Estimated Number of Responses:* 1,460 annually.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

⁵ 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).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78f(b)(5).

- *Average Hours Per Response:* 1 hour.
- *Total Estimated Burden:* 1,460 hours.
- *Frequency:* Annually.
- *Obligation to Respond:* Mandatory.

DATES: The Department will accept comments from the public up to 60 days from May 26, 2009.

ADDRESSES: You may submit comments by any of the following methods:

- *E-mail:* jexchanges@state.gov. You must include the DS form number and RIN in the subject line of your message.
- *Mail (paper, disk, or CD-ROM submissions):* U.S. Department of State, Office of Exchange Coordination and Designation, SA-44, 301 4th Street, SW., Room 734, Washington, DC 20547.
- *Fax:* 202-203-5087.

Persons with access to the Internet may also view this notice and provide comments by going to the regulations.gov Web site at: <http://www.regulations.gov/index.cfm>. You must include the DS form number, information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Stanley S. Colvin, Deputy Assistant Secretary, Office of Private Sector Exchange, U.S. Department of State, SA-44, 301 4th Street, SW., Room 734, Washington, DC 20547; or e-mail at jexchanges@state.gov.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

Annual reports from designated program sponsors assist the Department in oversight and administration of the J-1 visa program. The reports provide statistical data on the number of exchange participants an organization sponsored per category of exchange. The reports also provide a summary of the

activities in which exchange visitors were engaged and an evaluation of program effectiveness. Program sponsors include government agencies, academic institutions, and private sector not-for-profit and for-profit entities.

Methodology

Annual reports are completed through the Student and Exchange Visitor Information System (SEVIS) and then printed and signed by a sponsor official, and sent to the Department by mail or fax. The Department is currently working with the Department of Homeland Security to expand SEVIS functions and enable the collection of electronic signatures. Annual reports will be submitted to the Department electronically as soon as the mechanism for doing so is approved and in place.

Dated: May 14, 2009.

Stanley S. Colvin,

Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Exchange, Department of State.

[FR Doc. E9-12147 Filed 5-22-09; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6633]

In the Matter of the Review of the Designation of Abu Nidal Organization Movement (ANO) and Palestinian Liberation Front—Abu Abbas Faction (PLF) and All Designated Aliases, as Foreign Terrorist Organizations Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (“INA”), 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-designation of the aforementioned organizations as foreign terrorist organizations have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designations.

Therefore, I hereby determine that the designations of the aforementioned organizations as foreign terrorist organizations, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

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

Dated: May 13 2009.

James B. Steinberg,

Deputy Secretary of State, Department of State.

[FR Doc. E9-12145 Filed 5-22-09; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6631]

State-24, Medical Records

SUMMARY: Notice is hereby given that the Department of State proposes to alter an existing system of records, Medical Records, State-24, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and Office of Management and Budget Circular No. A-130, Appendix I. The Department’s report was filed with the Office of Management and Budget on May 18, 2009.

It is proposed that the current system will retain the name “Medical Records.” It is also proposed that due to the expanded scope of the current system, the altered system description will include revisions and/or additions to the following sections: Categories of Individuals Covered by the Systems, Categories of Records in the System, Purpose, Safeguards and Retrievability.

Any persons interested in commenting on the altered system of records may do so by submitting comments in writing to Margaret P. Grafeld, Director; Office of Information Programs and Services; A/GIS/IPS; Department of State, SA-2; 515 22nd Street, Washington, DC 20522-8001. This system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The altered system description, “Medical Records, State-24,” will read as set forth below.

Dated: May 18, 2009.

Steven J. Rodriguez,

Deputy Assistant Secretary of Operations, Bureau of Administration, Department of State.

STATE-24

SYSTEM NAME:

Medical Records.

SYSTEM LOCATION:

Department of State, Office of Medical Services, 2401 E Street, NW., Washington, DC 20522, and Health Units at Overseas Posts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Government employees, family members, and any other individuals