

exchange listing, and the role of an exchange in overseeing its market and assuring compliance with its listing standards.²¹

The Commission believes the proposed two-year minimum operating history requirement for companies that seek to list on the Exchange in connection with an offering under Regulation A of the Securities Act is reasonably designed to address the Exchange's concerns regarding maturity and preparedness for listing of these types of issuers. Regulation A allows companies to raise money from the public in securities offerings of up to \$50 million with the filing of Form 1-A but with somewhat more limited disclosure requirements than what is required in a registration statement on Form S-1 for an initial public offering.²² For example, Form 1-A requires less disclosure about the compensation of officers and directors and less detailed management discussion and analysis of the issuer's liquidity and capital resources and results of operations.²³ The Commission further notes that Regulation A issuers tend to be smaller companies in earlier stages of development.²⁴ As a general matter, early-stage ventures may be relying on the development of a new business, product, or service that may or may not find a market, unlike a mature business that is more likely to have a track record of revenue or income.

The Commission believes, based on the factors discussed above, that the proposed operating history requirement may help to ensure that a company listing in connection with a Regulation A offering is more seasoned, and thus more likely to be ready for the rigors of being a public, exchange-listed and

²¹ See, e.g., Securities Exchange Act Release Nos. 65708 (November 8, 2011), 76 FR 70799 (November 15, 2011) (SR-Nasdaq-2011-073) (order approving a proposal to adopt additional listing requirements for companies applying to list after consummation of a "reverse merger" with a shell company), and 57785 (May 6, 2008), 73 FR 27597 (May 13, 2008) (SR-NYSE-2008-17) (order approving a proposal to adopt new initial and continued listing standards to list securities of special purpose acquisition companies).

²² See Regulation A Adopting Release, *supra* note 10.

²³ See *id.* at 21889. The Commission notes that a company that conducts an offering under Regulation A at the same time as listing can include balance sheets for its last two fiscal years, with no interim financial statements, whereas a company that conducts an initial public offering on Form S-1 at the time of listing would be required to have interim financial statements dated no later than 134 days prior to effectiveness of the Form S-1 and at the time of listing. See Notice, *supra* note 5, at 17225.

²⁴ See Securities Exchange Act Release No. 86129 (June 18, 2019), 84 FR 30460, 30492-93 (June 26, 2019) (File No. S7-08-19) (Concept Release on Harmonization of Securities Offering Exemptions).

traded, company, and that therefore the requirement would be consistent with the investor protection provisions of Section 6(b)(5) of the Exchange Act. The Commission notes that, as Nasdaq stated in its proposal, the additional two-year operating history requirement can help to assure that a company listing in connection with a Regulation A offering will be more likely to have a developed business plan upon which investors can rely, was able to successfully fund its initial phase of operations, and may be more likely to be better prepared to satisfy public company requirements, including reporting and corporate governance requirements.

While capital formation and access to markets is very important, the Commission notes that the additional listing requirement applies to a small subset of companies applying to list in connection with a Regulation A offering and that the Exchange has identified a reasonable requirement that it believes will help it to ensure the suitability of such companies for an Exchange listing, consistent with the requirements of Section 6(b)(5) of the Exchange Act. Finally, the Commission would expect Nasdaq to review its experience with the new initial listing standard for Regulation A listed companies and consider whether the adoption of the new rule has addressed the concerns identified by Nasdaq and propose any appropriate changes, if necessary, to its listing standards.

For the reasons discussed above, the Commission believes that Nasdaq's proposal will further the purposes of Section 6(b)(5) of the Exchange Act by, among other things, protecting investors and the public interest, and preventing fraudulent and manipulative acts and practices, as well as promoting fair and orderly markets under the Exchange Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,²⁵ that the proposed rule change (SR-NASDAQ-2019-017) be, and it hereby is, approved.

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

Eduardo A. Aleman,

Deputy Secretary.

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²⁵ 15 U.S.C. 78s(b)(2).

²⁶ 17 CFR 200.30-3(a)(12).

DEPARTMENT OF STATE

[Public Notice 10815]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: "Mapa Wiya (Your Map's Not Needed): Australian Aboriginal Art From the Fondation Opale" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition "Mapa Wiya (Your Map's Not Needed): Australian Aboriginal Art from the Fondation Opale," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Menil Collection, Houston, Texas, from on or about September 13, 2019, until on or about January 26, 2020, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, SA-5, Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 236-28 of June 10, 2019.

Rick A. Ruth,

Senior Advisor, Bureau of Educational and Cultural Affairs, Department of State.

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