

Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. NASDAQ and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and Direct Edge. A proliferation of dark pools and other ATSS operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While broker-dealers have previously published their proprietary data individually, Regulation NMS encourages market data vendors and broker-dealers to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg, and Thomson-Reuters.

The court in NetCoalition concluded that the Commission had failed to demonstrate that the market for market data was competitive based on the reasoning of the Commission's NetCoalition order because, in the court's view, the Commission had not adequately demonstrated that the depth-of-book data at issue in the case is used to attract order flow. NASDAQ believes, however, that evidence not before the court clearly demonstrates that availability of depth data attracts order flow.

Competition among platforms has driven NASDAQ continually to improve its platform data offerings and to cater to customers' data needs.

For the foregoing reasons, NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or

appropriate in furtherance of the purpose of the Act.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>13</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**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 Exchange 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-NASDAQ-2011-153 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-NASDAQ-2011-153. 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, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office 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-NASDAQ-2011-153 and should be submitted on or before December 23, 2011.

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

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

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**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #12936 and #12937]**

**North Carolina Disaster #NC-00038**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of North Carolina dated 11/21/2011.

*Incident:* Storms and tornadoes.

*Incident Period:* 11/16/2011.

*Effective Date:* 11/21/2011.

*Physical Loan Application Deadline Date:* 01/20/2012.

*Economic Injury (EIDL) Loan Application Deadline Date:* 08/21/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration,

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Davidson.

*Contiguous Counties:*

North Carolina: Davie, Forsyth, Guilford, Montgomery, Randolph, Rowan, Stanly.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	4.125
Homeowners Without Credit Available Elsewhere .....	2.063
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere ...	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 12936 C and for economic injury is 12937 0.

The State which received an EIDL Declaration # are North Carolina.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 21, 2011.

**Karen G. Mills,**  
*Administrator.*

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**BILLING CODE 8025-01-M**

**SMALL BUSINESS ADMINISTRATION**

**Disaster Declaration #12738 and #12739; Nebraska Disaster Number NE-00041**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 2.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Nebraska (FEMA-4013-DR), dated 08/12/2011.

*Incident:* Flooding.

*Incident Period:* 05/24/2011 through 08/01/2011.

*Effective Date:* 11/18/2011.

*Physical Loan Application Deadline Date:* 10/11/2011.

*EIDL Loan Application Deadline Date:* 05/14/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of NEBRASKA, dated 08/12/2011 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties:* (Physical Damage and Economic Injury Loans) Thurston, including the Omaha Tribe of Nebraska and Iowa

*Contiguous Counties:* (Economic Injury Loans Only) All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Joseph P. Loddo,**  
*Acting Associate Administrator, for Disaster Assistance.*

[FR Doc. 2011-30937 Filed 12-1-11; 8:45 am]

**BILLING CODE 8025-01-M**

**DEPARTMENT OF STATE**

[Public Notice: 7705]

**60-Day Notice of Proposed Information Collection: DS-86, Statement of Non-Receipt of a Passport, 1405-0146**

**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:* Statement of Non-Receipt of a Passport.
- *OMB Control Number:* 1405-0146.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, CA/PPT/PMO/PC.
- *Form Number:* DS-86.
- *Respondents:* Individuals who have not received the passport for which they originally applied.
- *Estimated Number of Respondents:* 12,755 per year.

- *Estimated Number of Responses:* 12,755 per year.
- *Average Hours per Response:* 5 min.
- *Total Estimated Burden:* 1,063 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

**DATES:** The Department will accept comments from the public up to 60 days from December 2, 2011.

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

- *Email:* [PPTFormsOfficer@state.gov](mailto:PPTFormsOfficer@state.gov)
- *Mail (paper, disk, or CD-ROM submissions):* Passport Services, Passport Forms Management and Officer, U.S. Department of State, Office of Program Management and Operational Support, 2201 C Street NW., Washington, DC 20520.

You must include the DS form number (if applicable), 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 Passport Services, Passport Forms Management and Officer, U.S. Department of State, Office of Program Management and Operational Support, 2201 C Street NW., Washington, DC 20520, who may be reached on (202) 663-2457 or at [PPTFormsOfficer@state.gov](mailto:PPTFormsOfficer@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**

This statement of non-receipt is used by the U.S. Department of State to collect information for the purpose of issuing a replacement passport to customers who have not received the passport for which they originally applied.