

consolidated last sale price varies significantly from the NOCP or the Primary Market Close, based on information that becomes available after the market close. If the post-close cross would not execute within a preset boundary (the "Threshold Percentage"),<sup>9</sup> the cross would not occur and be automatically cancelled by Nasdaq.

### III. Discussion

The Commission finds that the proposed rule change is consistent with Section 15A of the Exchange Act<sup>10</sup> and the rules and regulations thereunder.<sup>11</sup> Specifically, the Commission finds the proposal to be consistent with Section 15A(b)(6) of the Exchange Act,<sup>12</sup> which requires the NASD's rules to be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Nasdaq Crossing Network would provide market participants and investors with an additional mechanism for order execution. The Commission, in relying on Nasdaq's representation that participation in the RPCs would be voluntary and open to all Nasdaq market participants and would not result in any advantage to market participants that participate in RPCs over those market participants that do not choose to participate, believes that the Nasdaq Crossing Network is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Nasdaq has proposed to execute RPC orders at a predetermined reference price at a randomly selected point in time during a one-minute trading window. The Commission notes that using the automated and random matching mechanism to execute an RPC cross should minimize the opportunity

for manipulation. In addition, the Commission notes that, should Nasdaq desire to add more frequent crosses or to modify the time of the crosses in the future, it must submit a rule change to the Commission pursuant to 19(b) of the Exchange Act.<sup>13</sup> Because RPC orders that are executed during the regular hours session would be executed at the midpoint of the NBBO, it is possible that a Nasdaq member would trade ahead of a held customer order by less than \$0.01 (*i.e.*, \$0.005). The Commission believes that such an event would trigger a Manning Rule obligation.<sup>14</sup>

The Commission believes that the RPC is reasonably designed to promote just and equitable principles of trade. The Commission notes that any transaction on the Crossing Network effected in non-Nasdaq listed securities would be subject to the relevant short sale restrictions until Nasdaq requests and receives appropriate relief.<sup>15</sup> In addition, the Commission notes Nasdaq's representation that this proposed rule change will not alter the continued accuracy of the representations made by Nasdaq in the letter requesting interpretive guidance with respect to the application of Rule 11a2-2(T) under the Exchange Act that was submitted in connection with Nasdaq's application for registration as a national securities exchange.<sup>16</sup>

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>17</sup> that the proposed rule change (SR-NASD-2005-140), as amended by Amendments No. 1 and 2, be, and it hereby is, approved.

<sup>13</sup> 15 U.S.C. 78s.

<sup>14</sup> See *supra* note 5.

<sup>15</sup> *Id.*

<sup>16</sup> See letter to Nancy M. Morris, Secretary, Commission, and Elizabeth King, Associate Director, Division of Market Regulation, Commission, from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, dated January 12, 2006. The "effect and execute" rule provides exchange members with an exemption from the prohibition in Section 11(a) of the Exchange Act against a member of a national securities exchange effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion unless an exception applies. In reliance on Nasdaq's representations in its letter, the Commission concluded in its order approving Nasdaq's exchange registration application that Nasdaq Exchange members that enter orders into Nasdaq Execution Systems satisfy the requirements of Rule 11a2-2(T) under the Exchange Act. See Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10-131).

<sup>17</sup> 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E6-10923 Filed 7-11-06; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

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

**ACTION:** Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

**SUMMARY:** The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 22 existing Small Business Development Centers (SBDCs) for refunding on October 1, 2006, subject to the availability of funds. Six states do not participate in the EO 12372 process; therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 60 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the **ADDRESSES** section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

**DATES:** A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

#### ADDRESSES:

#### Addresses of Relevant SBDC State Directors

Mr. Al Salgado, Region Director, Univ. of Texas at San Antonio, 501 West Durango Blvd., San Antonio, TX 78207. (210) 458-2450.

Mr. Conley Salyer, State Director, West Virginia Development Office, 950 Kanawha Boulevard, East Charleston, WV 25301. (304) 558-2960.

Mr. Clinton Tymes, State Director, University of Delaware, One Innovation Way, Suite 301, Newark, DE 19711. (302) 831-2747.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>9</sup> Initially, the Threshold Percentage would be set at ten percent, with a \$0.50 difference between the NOCP or the Primary Market Close and the consolidated last sale price. Any changes to the Threshold Percentage would be made in advance of application and would be communicated to members. Nasdaq would publish any changes to the Threshold Percentage via its public NasdaqTrader Web site.

<sup>10</sup> 15 U.S.C. 78o-3.

<sup>11</sup> 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).

<sup>12</sup> 15 U.S.C. 78o-3(b)(6).

Ms. Carmen Marti, SBDC Director, Inter American University of Puerto Rico, Ponce de Leon Avenue, #416, Edificio Union Plaza, Seventh Floor, Hato Rey, PR 00918. (787) 763-6811.

Mr. Michael Young, Region Director, University of Houston, 2302 Fannin, Suite 200, Houston, TX 77002. (713) 752-8425.

Ms. Becky Naugle, State Director, University of Kentucky, 225 Gatton College of Business Economics, Lexington, KY 40506-0034. (859) 257-7668.

Ms. Liz Klimback, Region Director, Dallas Community College, 1402 Corinth Street, Dallas, TX 75212. (214) 860-5835.

Ms. Rene Sprow, State Director, Univ. of Maryland @ College Park, 7100 Baltimore Avenue, Suite 401, Baltimore, MD 20742-1815. (301) 403-8300.

Mr. Craig Bean, Region Director, Texas Tech University, 2579 South Loop 289, Suite 114, Lubbock, TX 79423-1637. (806) 745-3973.

Ms. Debbie Popp, Acting State Director, University of Wyoming, P.O. Box 3922, Laramie, WY 82071. (307) 766-3505.

Mr. Max Summers, State Director, University of Missouri, 1205 University Avenue, Suite 300, Columbia, MO 65211. (573) 882-1348.

Mr. Jon Ryan, State Director, Iowa State University, 340 Gerding Business Building, Ames, IA 50011-1350. (515) 294-2037.

Mr. James L. King, State Director, State University of New York, Corporate Woods Building, Albany, NY 12246. (518) 641-0613.

Ms. Michele Abraham, State Director, Ohio Department of Development, 77 South High Street, 28th Floor, Columbus, OH 43216-1001. (614) 466-5102.

Ms. Lenae Quillen-Blume, State Director, Vermont Technical College, P.O. Box 188, Randolph Center, VT 05061-0188. (802) 728-9101.

Mr. Warren Bush, SBDC Director, University of the Virgin Islands, 8000 Nisky Center, Suite 720, St. Thomas, U.S. VI 00802-5804. (340) 776-3206.

#### FOR FURTHER INFORMATION CONTACT:

Antonio Doss, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW., Sixth Floor, Washington, DC 20416.

#### SUPPLEMENTARY INFORMATION:

#### Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small

businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

#### Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

- (a) Strengthen the small business community;
- (b) Increase economic growth;
- (c) Assist more small businesses; and
- (d) Broaden the delivery system to more small businesses.

#### SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

#### SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

#### SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

- (a) Locate service centers so that they are as accessible as possible to small businesses;
- (b) Open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;
- (c) Develop working relationships with financial institutions, the

investment community, professional associations, private consultants and small business groups; and

- (d) Maintain lists of private consultants at each service center.

Dated: June 29, 2006.

**Antonio Doss,**

*Associate Administrator for Small Business Development Centers.*

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## SMALL BUSINESS ADMINISTRATION

### Public Federal Regulatory Enforcement Fairness Hearing U.S. Small Business Administration Region IX Regulatory Fairness Board

The U.S. Small Business Administration (SBA) Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a public hearing on Thursday, July 20, 2006, at 9 a.m. The meeting will take place at the San Diego Unified Port District, Don L. Nay Port Administration Building, 3165 Pacific Highway, San Diego, CA 92101-3500. The purpose of the meeting is to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by Federal agencies.

Anyone wishing to attend or to make a presentation must contact Cynthia Harris, in writing or by fax, in order to be put on the agenda. Cynthia Harris, Public Information Officer, SBA, 550 West C Street, Suite 550, San Diego, CA 92101-3500, phone (619) 557-7250, Ext. 1155 and fax (619) 557-5894, e-mail: [Cynthia.harris@sba.gov](mailto:Cynthia.harris@sba.gov).

For more information, see our Web site at <http://www.sba.gov/ombudsman>.

**Matthew K. Becker,**

*Committee Management Officer.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No. OST-2006-24502]

### Notice of Request for Information Collection Approval

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice