

setting the terms of the fees for its non-core data product.¹¹

The market data provided in NASDAQ Basic is non-core data that is governed by the same analysis the Commission set forth in the NetCoalition Order. As with the NYSE Arca depth-of-book product, no rule requires NASDAQ or any other exchange to offer its BBO and Last Sale or vendors to display that data. Because NASDAQ Basic data is merely a subset of depth-of-book data, NASDAQ is subject to the same competitive forces that apply to depth-of-book data: Its compelling need to attract order flow from market participants; and the availability to market participants of alternatives to purchasing the NASDAQ Basic data. Indeed, the Commission invoked the same reasoning in approving pilot programs for NASDAQ Last Sale and NYSE Open Book which provide non-core last sale data from NASDAQ and the New York Stock Exchange, one element of this proposal.¹²

NASDAQ considerations in setting the fees for NASDAQ Basic are virtually identical to those the Commission approved in the NetCoalition [sic] Order. First, the proposed fees for NASDAQ Basic data will apply equally to all professional subscribers and equally to all non-professional subscribers. The fees therefore do not unreasonably discriminate among types of subscribers. Second, the proposed fees for the NASDAQ Basic data are substantially less than those charged by the Network Processors for the consolidated NBBO or last sale data. Third, NASDAQ projects that the total revenues generated by the fee for NASDAQ Basic data initially will amount to less than the \$8 million per year that NYSE Arca projected would be generated by its ArcaBook data.¹³

Finally, as stated above, rapid effectiveness of the proposed rule change is in the public interest and supports the protection of investors by allowing data distributors to make additional market data available to investors that choose to purchase it. Widespread availability of NASDAQ Basic benefits investors by improving access to real-time market data that investors can choose to use. It also enables member firms to reduce their costs and to pass on those cost savings

to their customers through reduced commissions.

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

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

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 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 e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2009-028 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-2009-028. This file number should be included on the subject line if e-mail 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 inspection and copying in the Commission's Public Reference Room, 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-2009-028 and should be submitted on or before May 5, 2009.

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

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-8416 Filed 4-13-09; 8:45 am]

BILLING CODE 8010-01-P

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket No. USTR-2009-0011]

**Initiation of Section 302 Investigation,
Determination of Action Under Section
301, and Request for Comments:
Canada-Compliance With Softwood
Lumber Agreement**

Correction

In notice document E9-8232 beginning on page 16436 in the issue of Friday, April 10, 2009 make the following correction:

On page 16438, in the second column, immediately following the signature block, five photographed pages were inadvertently deleted. They are reprinted in full below:

BILLING CODE 1505-01-D

¹¹ *Id.* at 51-65. The Commission then spent an additional 36 pages (65-101) analyzing and refuting comments challenging the Commission's competition analysis.

¹² See Securities Exchange Act Release No. 57966 (June 16, 2008), 73 FR 35182 (June 20, 2008) (File No. SR-NYSE-2007-04) (NYSE Real-Time Reference Prices); Securities Exchange Act Release No. 57965 (June 16, 2008), 73 FR 35178 (June 20,

2008) (SR-NASDAQ-2006-060) (NASDAQ Last Sale Data Feeds).

¹³ *Id.* at 101-104.

¹⁴ 17 CFR 200.30-3(a)(12).

Annex

A. Effective with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after April 15, 2009, the Harmonized Tariff Schedule of the United States (HTS) is modified by adding in numerical sequence the following superior text and subheading to subchapter III of chapter 99 to the HTS. The superior text and subheading are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", and "Rates of Duty 1-Special", respectively:

"Articles the product of Canada, or originating goods of Canada under the terms of general note 12 to the tariff schedule:

9903.53.01	Softwood lumber products described in U.S. note 13 to this subchapter, whose Region of Origin is Manitoba, Ontario, Quebec or Saskatchewan	10%	10% (CA)"
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B. Effective with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after April 15, 2009, the Harmonized Tariff Schedule of the United States (HTS) is modified by adding in numerical sequence the following U.S. note to subchapter III of chapter 99 to the HTS:

- "13. (a) For the purposes of subheading 9903.53.01, the duties provided for in this subchapter are cumulative duties which apply in addition to the duties otherwise imposed on the articles involved.
- (b) For the purposes of subheading 9903.53.01, and as provided in Annex 1A of the 2006 Softwood Lumber Agreement between the United States and Canada, signed on September 12, 2006, as amended by an Agreement between the United States and Canada, signed on October 12, 2006 (SLA 2006), "softwood lumber products" include all products classified under subheadings 4407.10.01, 4409.10.10, 4409.10.20, 4409.10.90, and 4418.90.25, and under statistical reporting number 4418.90.4605, and any softwood lumber, flooring, and siding described below. These softwood lumber products include:
- (i) coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 mm;
 - (ii) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed;
 - (iii) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-

- jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed;
- (iv) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed; and
 - (v) coniferous drilled and notched lumber and angle cut lumber.
- (c) For the purposes of subheading 9903.53.01, and as provided in Annex 1A of the SLA 2006, “softwood lumber products” shall also include:
- (i) any product entering under subheading 4409.10.05 which is continually shaped along its end and/or sided edges which otherwise conforms to the written definition of the scope; and
 - (ii) lumber products that are classified as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the criteria listed in subdivision (f) of this note, as well as truss components, pallet components, and door and window frame parts, which may be imported under statistical reporting numbers 4418.90.4695, 4421.90.7040 and 4421.90.9760.
- (d) For the purposes of subheading 9903.53.01 and the definition of “softwood lumber products,” the subheading references and statistical reporting numbers in this note are provided for convenience; the written description of softwood lumber products in this note is dispositive.
- (e) The following articles are not “softwood lumber products” for purposes of subheading 9903.53.01:
- (i) trusses and truss kits, properly classified under subheading 4418.90;
 - (ii) I-Joist beams;
 - (iii) assembled box spring frames;
 - (iv) pallets and pallet kits, properly classified under subheading 4415.20;
 - (v) garage doors;
 - (vi) [edge-glued lumber, properly classified under subheading 4421.90.94, and other edge-glued wood, properly classified under statistical reporting number 4421.90.9760;
 - (vii) properly classified complete door frames;

- (viii) properly classified complete window frames;
 - (ix) properly classified furniture;
 - (x) articles brought into the United States temporarily and claimed to be exempt from duty under subchapter XIII of chapter 98; and
 - (xi) household and personal effects.
- (f) The following articles are not "softwood lumber products" for purposes of subheading 9903.53.01, provided that they meet the specified requirements detailed below:
- (i) stringers (pallet components used for runners); if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under statistical reporting number 4421.90.9760;
 - (ii) box-spring frame kits, if they contain the following wooden pieces - two side rails; two end (or top) rails; and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, and should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1 inch in actual thickness or 83 inches in length;
 - (iii) radius-cut box-spring-frame components, not exceeding 1 inch in actual thickness or 83 inches in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner;
 - (iv) fence pickets requiring no further processing and properly classified under subheading 4421.90.70, 1 inch or less in actual thickness, up to 8 inches wide, and 6 feet or less in length, and having finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring 3/4 of an inch or more;
 - (v) U.S.-origin lumber shipped to Canada for minor processing and imported into the United States, is excluded from the scope of subheading 9903.53.01 if the following conditions are met: (1) if the processing occurring in Canada is limited to kiln drying, planing to create smooth-to-size board, and sanding, and (2) if the importer establishes to the satisfaction of U.S. Customs and Border Protection (U.S. CBP) that the lumber is of U.S. origin; and
 - (vi) in addition, all softwood lumber products entered claiming non-subject status

based on U.S. country of origin shall be treated as excluded under subheading 9903.53.01, provided that these softwood lumber products meet the following condition: upon entry, the importer, exporter, Canadian processor and/or original U.S. producer shall establish to U.S. CBP's satisfaction that the softwood lumber entered and documented as U.S.-origin softwood lumber was first produced in the United States as a lumber product satisfying the physical parameters of the softwood lumber scope.

- (g) Softwood lumber products contained in single family home packages or kits, regardless of tariff classification, are excluded from the scope of subheading 9903.53.01 if the importer certifies to subdivisions (i), (ii), (iii), and (iv) and the requirements in subdivision (v) are met:
- (i) the imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;
 - (ii) the package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint;
 - (iii) prior to importation, the package or kit must be sold to a retailer in the United States of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;
 - (iv) softwood lumber products entered as part of a single family home package or kit, whether in a single entry or multiple entries on multiple days, will be used solely for the construction of the single family home specified by the home design matching the U.S. CBP import entry; and
 - (v) for each entry into the United States, the following documentation must be retained by the importer and made available to U.S. CBP upon request:
 - (1) a copy of the appropriate home design plan, or blueprint matching the customs entry in the United States;
 - (2) a purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;
 - (3) a listing of inventory of all parts of the package or kit being entered into the United States that conforms to the home design package being imported; and
 - (4) in the case of multiple shipments on the same contract, all items listed

in subdivision (g)(v)(3) which are included in the shipment at issue shall be identified as well.

- (h) The additional duties provided for in subheading 9903.53.01 shall not apply to softwood lumber products produced by the companies listed in Annex 10 of the SLA 2006.
- (i) The additional duties provided for in subheading 9903.53.01 shall no longer apply after the Office of the United States Trade Representative (USTR) in consultation with U.S. Customs and Border Protection (U.S. CBP) has determined that \$54.8 million in additional duties has been collected. USTR shall notify U.S. CBP of the date on which to cease collecting the additional duties, and USTR shall publish a notice in the Federal Register terminating the application of additional duties under subheading 9903.53.01 and deleting this note and subheading 9903.53.01 and the superior text thereto from the HTS.”

[FR Doc. Z9-8232 Filed X-XX-09; 8:45 am]
BILLING CODE 1505-01-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2009-16

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2008-16, Section 168(k)(4) Election Procedures.

DATES: Written comments should be received on or before June 15, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the revenue procedure should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Section 168(k)(4) Election Procedures.

OMB Number: 1545-2133.

Revenue Procedure Number: Revenue Procedure 2009-16.

Abstract: This revenue procedure provides the time and manner for (1) corporations to make the election to apply section 168(k)(4) of the Code, (2) corporations to make the allocation of the bonus depreciation amount resulting from the section 168(k)(4) election, (3) corporate partners who make the section 168(k)(4) election to notify partnerships, and (3) U.S. automobile manufacturing partnerships (such as, Chrysler) to make the election to apply section 3081(b) of the Act.

Current Actions: Extension of a previously approved collection.

Affected Public: Businesses and for-profit institutions.

Estimated Number of Respondents: 5,400.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,700.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of information;

(c) ways to enhance the quality, utility, and clarity of the information to be collected;

(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 30, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-8430 Filed 4-13-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13614-SP

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,