

and fails to account for the special status of TMI-2, the current level of underfunding, or the fact that decommissioning rate recovery for Metropolitan Edison and Pennsylvania Electric cease per Pennsylvania Public Utility Commission Orders on December 31, 2010.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Federal and State Materials and Environmental Management Programs (FSME). As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time. The petitioner met with FSME's Petition Review Board (PRB), via teleconference, on October 19, 2010, to discuss the petition. The results of that discussion have been considered in the PRB's determination regarding the petitioner's request for additional information from FirstEnergy and in establishing the schedule for the review of the petition.

Copies of the petition are available to the public from the NRC's Agencywide Documents Access and Management System (ADAMS) in the public Electronic Reading Room on the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession No. ML102770308, and are available for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

Dated at Rockville, Maryland, November 9, 2010.

For the Nuclear Regulatory Commission.

**Charles L. Miller,**

*Director, Office of Federal and State Materials and Environmental Management Programs.*

[FR Doc. 2010-29367 Filed 11-19-10; 8:45 am]

**BILLING CODE 7590-01-P**

## POSTAL SERVICE

### Market Test of Experimental Product: "Alternative Postage Payment Method for Greeting Cards"

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of a market test of an experimental product in accordance with statutory requirements.

**DATES:** November 22, 2010.

**FOR FURTHER INFORMATION CONTACT:** David H. Rubin, 202-268-2986.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice pursuant to 39 U.S.C.

3641(c)(1) that it will begin a market test of its "Alternative Postage Payment Method for Greeting Cards" experimental product on January 2, 2011. The Postal Service has filed with the Postal Regulatory Commission a notice setting out the basis for the Postal Service's determination that the market test is covered by 39 U.S.C. 3641 and describing the nature and scope of the market test. Documents are available at <http://www.prc.gov>, Docket No. MT2011-1.

**Neva R. Watson,**

*Attorney, Legislative.*

[FR Doc. 2010-29288 Filed 11-19-10; 8:45 am]

**BILLING CODE 7710-12-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Tuesday, November 23, 2010 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Tuesday, November 23, 2010 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and  
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: November 18, 2010.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2010-29475 Filed 11-18-10; 4:15 pm]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63318; File No. SR-Phlx-2010-148]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Relating to Certain Membership Rules

November 16, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on November 5, 2010, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Section 19(b)(1) of the Act<sup>3</sup> and Rule 19b-4 thereunder,<sup>4</sup> proposes to delete Exchange Rule 793, Affiliations—Dual and [sic] Multiple and amend Rule 908, Rights and Privileges of A-1 Permits, and Option Floor Procedure Advices ("OFPA's") F-9, Dual Affiliations, and F-11, Splitting Order [sic], and Regulation 3, Identification Badges/Access Cards to provide that a Series A-1 permit holder may affiliate with two member organizations under common ownership.

The Exchange is also proposing to make a clarifying amendment to Rule 908(h) regarding permit transfer. Finally, the Exchange desires to amend Exchange Rule 900.2 to add a provision for lapsed applications.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, at the principal office of the Exchange, and at

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(1).

<sup>4</sup> 17 CFR 240.19b-4.

the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of the proposed rule change is to eliminate and reserve Exchange Rule 793 titled Affiliations—Dual or Multiple and adopt a simple standard for multiple affiliations. Currently, Exchange Rule 793 provides that no person shall at the same time be a partner, officer, director, stockholder, or associated person of more than one member or participant organization, nor shall he be affiliated in any manner with a non-member or non-participant organization which is engaged in the securities business, unless such affiliation has been disclosed to and approved in writing by the member and/or participant organization and such approval has been filed with the Office of the Secretary.

Currently, a permit holder may affiliate with more than one member or participant organization so long as the Exchange is notified, in writing, of the affiliation. The affiliation involves an agreement between the member organizations and the permit holder. The Exchange is not a party to that arrangement. The Exchange requires: (i) An explanation of the business purpose for the arrangement; and (ii) identification of the individuals who shall supervise the business conduct of the permit holder that is multiply affiliated for compliance with the By-Laws and Rules. The Exchange may disapprove multiple affiliations which are inconsistent with Exchange standards of financial responsibility, operational capability, or compliance responsibility.

Currently, an affiliation pursuant to Rule 793 allows a person to be associated with multiple member

organizations for different purposes. Specifically, if a broker dealer sought membership on the Exchange for the purpose of electronic access to the Exchange's trading system, that broker dealer could seek an affiliation pursuant to Rule 793. In this example, the affiliation would serve to provide membership status to a broker dealer without the need for the broker dealer to secure a permit. If a member organization is solely gaining electronic access to the Exchange, that member organization only requires one permit to qualify as a member organization.

Another purpose for the dual affiliation could involve access to the Exchange's trading floor and the ability for permit holders to affiliate with multiple member organizations for greater flexibility. In this example floor traders could become affiliated with various related member organizations in order to satisfy certain trading and/or staffing requirements. If a member organization is conducting business on the Exchange's trading floor, each person associated with that member organization on the trading floor who functions in a trading capacity is required to have a permit. Every trader on the Exchange's trading floor is required to obtain a Series A-1 permit.

The Exchange is proposing to eliminate this Rule<sup>5</sup> and instead amend Exchange Rule 908 to allow a Series A-1 permit holder on the Exchange's trading floor to affiliate with up to two member organizations (a primary and a secondary member organization) that are under common ownership, a primary and a secondary member organization.<sup>6</sup> The common ownership would be at least 75% common ownership between the member organizations. Both the primary and secondary member organizations would be required to notify the Membership Department of such an affiliation. Notification of such affiliation pursuant to 908(b)(i) would include: (i) An attestation of common ownership; (ii) the names of the individuals responsible for supervision of the permit holder; and (iii) the Exchange account numbers for billing purposes.<sup>7</sup> A Series A-1 permit holder would also be required to comply with all current membership

<sup>5</sup> The Commission notes the Exchange is proposing to reserve Rule 793.

<sup>6</sup> Notwithstanding applicable By-Laws and Rules conditioning membership, a Series A-1 permit holder on the Exchange's trading floor may be affiliated with up to two (2) member organizations that are under common ownership.

<sup>7</sup> Both the primary and secondary member organizations would be required to execute a form which the Membership Department shall make available once the Membership Department is notified of the proposed affiliation.

By-Laws and Rules. Specifically, By-Laws 13-2, 13-4 and 13-6, among others, would still condition membership.

While a Series A-1 permit holder who is already affiliated with a member organization (primary affiliation) may affiliate with a member organization under common ownership (a secondary affiliation) as proposed herein, the permit holder must comply with all applicable registration, qualification and examination requirements. The proposed amendment to Rule 908(b)(i) allows the Series A-1 permit holder the ability to engage in trading activity on behalf of either the primary or secondary member organization that the permit holder is affiliated with as per Rule 908(b)(i). The Exchange's By-Laws and Rules would continue to apply to affiliated permit holders (permit holders with a primary and a secondary affiliation) and the affiliated member organizations (primary and secondary affiliations) with respect to trading, registration, qualifications, examinations and other membership requirements. Further, the Exchange would have access to information on the affiliate in order to allow it to carry out its regulatory responsibility with respect to the member organization and its affiliated persons.

For example, an affiliated Series A-1 permit holder (a permit holder with a primary and a secondary affiliation) is required to display a badge on the Exchange's trading floor identifying on behalf of which member organization the permit holder is trading for on a particular day. For example whether the Series A-1 permit holder is trading for the primary or secondary member organization.<sup>8</sup> The badge is used to identify the member organization with which the Series A-1 permit holder is affiliated. The Series A-1 permit holder is required to maintain all the requisite qualifications, registrations and comply with all applicable trading rules at all times. The Series A-1 permit holder is required to specifically obtain and maintain all necessary registrations to trade for an affiliated member organization, as well as the necessary qualifications.

In particular, the Exchange requires certain information from the Series A-1 permit holder seeking affiliation in order to assure compliance with Rule 908 and other membership requirements

<sup>8</sup> The Exchange requires a Series A-1 permit holder on the Exchange's trading floor to wear a badge which is provided by the Exchange and contains identifying information. The affiliated Series A-1 permit holder cannot simultaneously trade for both the primary and secondary member organization on the same day.

as well as other Rules. Specifically, the affiliated permit holder (permit holder with a primary and a secondary affiliation) would be required to disclose the individuals at each member organization (primary and secondary) responsible for supervising the Series A-1 permit holder.<sup>9</sup> This information is utilized by the Regulatory staff in its examination of persons trading on the Exchange for appropriate compliance with the Rules of the Exchange.

If a Series A-1 permit holder who is currently affiliated pursuant to Rule 793 is not affiliated with entities under common ownership, the organization that they qualify as a member would be required to obtain its own permit in order to maintain its membership status. A Series A-1 permit holder who currently affiliates with an unrelated party (not under common ownership) to qualify a member organization for electronic access or access to the trading floor would not be permitted to continue to qualify that member organization under this proposal. Similarly, if a permit holder had more than two affiliations with a member organization they would only be permitted to maintain an affiliation with up to two member organizations. The amended text of Rule 908 requires that a Series A-1 permit holder can only affiliate with up to two member organizations that are under common ownership.

In addition, the Exchange proposes to make conforming amendments to certain OFPAs<sup>10</sup> and Regulations,<sup>11</sup> specifically, OFPA F-9, Dual Affiliations, OFPA F-11, Splitting Order [sic], and Regulation 3, Identification Badges/Access Cards.

The Exchange proposes to amend OFPA F-9 by removing references to "dual" so that the filing [sic] simply refers to affiliations. The Exchange is changing the requirement to report to the Office of the Secretary to the Membership Department to conform with the proposed amendment to Rule 908. The Exchange proposes to amend the reference to Rule 793, which is being deleted, and instead refer to Rule 908.

<sup>9</sup> The Commission notes that the Exchange has proposed that both member organizations, not the affiliated permit holder, will be responsible for notifying the Exchange of the identity of the individuals supervising the affiliated permit holder. See proposed Rule 908(b)(i).

<sup>10</sup> The Exchange's minor rule plan consists of options floor procedure advices ("OFPAs" or "Advices") with preset fines, pursuant to Rule 19d-1(c) under the Act. 17 CFR 240.19d-1(c). Most OFPAs have corresponding options rules.

<sup>11</sup> Regulation 3 is part of the Exchange's Order and Decorum Regulations administered pursuant to Exchange Rule 60.

The Exchange is also proposing to amend the language in OFPA F-9 to remove the requirements to explain compensation since the only affiliations that will be acceptable are those under common ownership. The Exchange is deleting the requirement to file an explanation of all agreed upon forms of compensation between affiliated firms because the Exchange believes that the information is not necessary since the firms would be required to be under common ownership pursuant to this proposal. The Exchange is also adding a sentence indicating that floor members must adhere to the requirements in renamed (a) and (b). The Exchange is proposing to reference Exchange Rule 1020 for the newly named F-9(ii)(a). The Exchange added this reference to Rule 1020 in paragraph F-9(ii)(a) in order to cross-reference the Rule concerning information barriers. This is not a substantive amendment; the purpose of this amendment is to be more specific with respect to the information in that paragraph. The Exchange simply renamed (b) for ease of reference.

The Exchange is proposing to amend OFPA F-11 by similarly removing references to "dual" and replacing references to Rule 793 with Rule 908. The Exchange is proposing to amend Regulation 3 by removing the reference to the word "dual."

The Exchange also proposes to amend Exchange Rule 908(h) to add an "or" to the text of the Exchange Rule 908(h) to make clear that a permit may be transferred either intra-firm or to an inactive nominee registered with the Exchange. This proposal is solely to clarify an existing practice.

The Exchange proposes to amend Exchange Rule 900.2, Membership and Foreign Currency Options Applications, to address lapsed applications. Pursuant to Exchange Rule 900.2, applicants desiring membership in the Exchange are required to submit information in a form prescribed by the Membership Department.<sup>12</sup> The Exchange expends resources in processing applications for members. The determination to admit a person for membership in the Exchange is contingent on the information provided in the application. After a 90 day calendar period has elapsed, the information provided by the applicant is stale and no longer a reasonable basis for the Exchange to make a

<sup>12</sup> The Membership Department posts the requisite forms on the Exchange's Web site at [http://www.nasdaqomxtrader.com/Trader.aspx?id=membership\\_phlx](http://www.nasdaqomxtrader.com/Trader.aspx?id=membership_phlx). The Membership Department updates the forms from time to time and makes them available on this Web site.

determination on admitting a person for membership. The Membership Department expends a considerable amount of resources requesting updates from members and researching information to make a reasonable determination when an application is outdated.

This proposal seeks to amend Exchange Rule 900.2<sup>13</sup> to require persons seeking membership to the Exchange to provide all information and subsequent requests from the Membership Department for information within a 90 calendar day period or the application lapses. The Exchange may extend the timeframe for extraordinary purposes or in the instance that the Exchange makes a request relatively close to the 90-day timeframe. If an application lapses, the person would be required to submit a new application.<sup>14</sup> The Exchange intends that all applicants be provided an equal opportunity to seek membership to the Exchange. Additionally, the Exchange would not refund the fee associated with submitting an application and the applicant would be required to pay a new fee to resubmit the application.<sup>15</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>16</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>17</sup> in particular, in that it is 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, by continuing to allow a Series A-1 permit holder to affiliate a permit in certain circumstances.

Exchange Rule 793 was initially proposed<sup>18</sup> prior to demutualization when the Exchange had a seat market and at that time it was more costly to obtain the right to trade on the

<sup>13</sup> The Commission notes that the Exchange proposes to renumber Rule 900.2(e) as 900.2(f) due to the new proposed Rule 900.2(e).

<sup>14</sup> The purpose of the new application would be to update all information to provide the Membership Department current information on which to basis [sic] a decision to accept the applicant for membership. The Exchange intends to file a proposal with the Commission to amend its Fee Schedule to reflect the lapsed application fee.

<sup>15</sup> The Exchange's Application Fee can be found on the Fee Schedule located on the Exchange's Web site at <http://www.nasdaqomxtrader.com/content/marketregulation/membership/phlx/feesched.pdf>.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> See Securities Exchange Act Release No. 21777 (January 9, 1985) [sic], 50 FR 8030, February 21, 1985) [sic] (SR-Phlx-84-14).

Exchange.<sup>19</sup> Since demutualization, a Series A-1 permit has expanded a member's ability to gain access to the Exchange at a significantly lower cost.<sup>20</sup> Today, there are no restrictions on the number of permits the Exchange may issue and, assuming the qualifications are met, a member organization may hold any number of permits, which does not prevent access to the Exchange.

The Exchange believes that this proposal simplifies the affiliation process and applies it equally to all members. The Exchange believes that allowing for affiliation where there is a common ownership and up to two affiliations is a simple, straightforward process for allowing access to the Exchange for the purpose of allowing floor traders to meet Exchange rules and for assistance with staffing issues.

The Exchange believes that amending the language in Rule 908(h) will provide members with clarity as to permit transfers. Finally, requiring applicants to submit their information within a 90 calendar day period, absent a showing of good cause, provides the Membership Department with information that can be utilized to make reasonable decisions concerning membership at the Exchange.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes 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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove the 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](mailto:rule-comments@sec.gov). Please include File No. SR-Phlx-2010-148 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 No. *SR-Phlx-2010-148*. 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 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 such 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 No. *SR-Phlx-2010-148* and should be submitted on or before December 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-29343 Filed 11-19-10; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63317; File No. SR-NYSEArca-2010-101]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the ProShares VIX Short-Term Futures ETF and the ProShares VIX Mid-Term Futures ETF**

November 16, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on November 5, 2010, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to list and trade shares of the ProShares VIX Short-Term Futures ETF and the ProShares VIX Mid-Term Futures ETF under NYSE Arca Equities Rule 8.200, Commentary .02. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

<sup>19</sup> Prior to demutualization, the Exchange had a limited number of seats and the dual affiliation allowed for additional access. There is no fixed number of Series A-1 permits today.

<sup>20</sup> The Exchange also allows members on the Exchange's trading floor to appoint inactive nominees pursuant to By-Law Article XII, Section 12-10. The inactive nominee allows a Member to have additional flexibility in obtaining coverage on the trading floor.

<sup>21</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.