

material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site and for assistance in using the Internet to locate docket submissions.

#### V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4–2010 (75 FR 55355).

Signed at Washington, DC, on January 13, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–1020 Filed 1–18–11; 8:45 am]

BILLING CODE 4510–26–P

### NATIONAL SCIENCE FOUNDATION

#### National Science Board; Sunshine Act Meetings; Notice

The National Science Board's Committee on Programs and Plans and the Committee on Audit & Oversight, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a joint meeting held by teleconference for the transaction of National Science Board business and other matters specified, as follows:

**DATE AND TIME:** January 24, 2011, 2 p.m. to 3 p.m. EST.

**SUBJECT MATTER:** NSB Thresholds.

**STATUS:** Open.

**LOCATION:** This meeting will be held by teleconference at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. A room will be available for the public to listen-in to this meeting held by teleconference. All visitors must contact the Board Office at least 24 hours prior to the meeting held by teleconference to arrange for a visitor's badge and to obtain the room number. Call 703–292–7000 or send an

e-mail message to [nationalsciencebrd@nsf.gov](mailto:nationalsciencebrd@nsf.gov) with your name and organizational affiliation to request the room number and your badge, which will be ready for pick-up at the visitor's desk the day of the meeting. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance to receive your visitor's badge on the day of the teleconference.

**UPDATES AND POINT OF CONTACT:** Please refer to the National Science Board Web site <http://www.nsf.gov/nsb> for additional information and schedule updates (time, place, subject matter or status of meeting) may be found at <http://www.nsf.gov/nsb/notices/>. Point of contact for this meeting is: Elizabeth Strickland, National Science Board Office, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

**Daniel A. Lauretano,**

Counsel to the National Science Board.

[FR Doc. 2011–1094 Filed 1–14–11; 11:15 am]

BILLING CODE 7555–01–P

### POSTAL REGULATORY COMMISSION

[Docket No. MT2011–2; Order No. 647]

#### Market Test of Gift Cards

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recently-field Postal Service proposal to conduct a 2-year market test involving the sale of gift cards. This document describes the proposed test, addresses procedural aspects of the filing, and invites public comment.

**DATES:** *Comment deadline:* February 4, 2011; *reply comment deadline:* February 15, 2011.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202–789–6820 or [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. Introduction

On January 5, 2011, the Postal Service filed a notice, pursuant to 39 U.S.C. 3641, announcing its intent to initiate a market test beginning on or about May 1, 2011, of an experimental competitive product, Gift Cards.<sup>1</sup> The market research test will provide customers the ability to purchase a card loaded with a specified sum of money which can be sent as a gift through the mail. *Id.* at 1.

#### II. Background

The Postal Service states that gift cards have become highly popular gifts in recent years. A recent survey found that gift cards are the most requested holiday gift. *Id.* at 2. Citing a nexus between the use of gift cards for gifting and the use of the mails for sending gift cards, the Postal Service asserts that selling gift cards at Postal Service retail locations will increase customer convenience and enhance Postal Service revenue by encouraging the use of the mail. *Id.*

*Description and nature of market test.* Pursuant to 39 U.S.C. 3641(c)(1)(B), the Postal Service provides a description of the nature and scope of the market test. Under the proposed market test, the Postal Service will test the sale of "open loop cards." These are cards branded by a Retail Electronic Payments Network (REPN) (*e.g.*, American Express, Discover, MasterCard, or Visa) and can be used by the gift card recipient at any merchant that accepts cards administered by that network. *Id.* The Postal Service will enter into an agreement with one or more issuing banks, REPNs or service providers. Cards will be sold either as standard cards by the supplier(s) or customized, co-branded cards with Postal Service imagery. *Id.* at 2. Open loop cards will be tested with fixed and variable amounts with minimum, incremental, and maximum amounts. To protect against fraud and money laundering, there will be limits on the value of cards purchased within certain timeframes. *Id.* at 3.

The Postal Service will operate only as a sales agent. *Id.* The card supplier will provide all customer support. *Id.* at 2.

The Postal Service may test closed loop cards (*i.e.*, cards specific to a particular merchant), but those plans have not yet been established. *Id.* at 3.

At first, cards will only be available at Postal Service retail windows. Cards will neither be available at Automated Postal Centers nor on the Internet at

<sup>1</sup> Notice of the United States Postal Service of Market Test of Experimental Product—Gift Cards, January 5, 2011 (Notice).

<http://www.USPS.com>. Cards will be activated upon purchase by a Postal Service retail associate and will be immediately available once activated. *Id.*

The test is planned for 2 years. *Id.* The product will be launched in May 2011 in 2,000 retail locations that currently sell greeting cards to take advantage of cross-selling opportunities with greeting cards. The test will expand to up to 3,000 additional locations (including locations without greeting cards) in October 2011, to capture holiday sales. *Id.* at 4.

**Product.** Initially, the Postal Service plans to sell gift cards in fixed amounts of \$25 and \$50 and cards in variable amounts with a minimum value of \$26, a maximum value of \$100, and any amount within that range. *Id.* at 3. Planned activation fees will be \$3.95 for a fixed \$25 card; \$4.95 for a fixed \$50 card; and \$5.95 for a variable card. *Id.* at 4. A \$500 daily maximum purchase per customer and a \$3,000 weekly maximum purchase per customer are planned. *Id.* at 3.

**Revenue to Postal Service.** Revenue will be generated through an activation fee paid by customers at the time of purchase in addition to the value of the card. *Id.* The Postal Service will retain a negotiated percentage of the activation fee for open loop cards. The supplier would retain the remainder of the fee. *Id.* Different fee levels may be tested to determine the optimal fees. *Id.* Activation fees are not generally levied on closed loop cards. If closed loop cards are tested, the Postal Service may enter into a revenue sharing arrangement with the closed loop card supplier. *Id.* n.4.

The Postal Service indicates that the gift cards will comply with the Credit Card Accountability, Responsibility, and Disclosure Act of 2009 (Pub. L. 111–24). *Id.* at 9. It further states that any fees that may be charged to card recipients, or to merchants who accept the gift cards, would be set by the card supplier(s) in compliance with applicable laws, including Public Law 111–24. The Postal Service will not receive any revenue from such fees. *Id.* at 4 n.3.

The annual revenues received by the Postal Service from the market test will not exceed \$10 million (as adjusted for inflation) in any fiscal year. *Id.* at 5; *see also* 39 U.S.C. 3641(e). In FY 2010, the gross revenue from activation fees is expected to slightly exceed the inflation adjusted threshold in that fiscal year. *Id.* at 11. Although the Postal Service may have that revenue in its possession during the period, its share of revenue retained will be less than \$10 million.

The Postal Service argues this complies with the statute. Alternatively, the Postal Service requests an exemption from the statutory threshold of \$10 million for FY 2012 because the three criteria for a section 3641(e)(2) exemption are met. *Id.* at 12.

**Statutory authority.** The Postal Service indicates that its market test to sell gift cards satisfies the criteria of 39 U.S.C. 3641, which impose certain conditions on experimental products. For example, gift cards satisfy the statutory definition of a “product.” The Postal Service asserts that the product is significantly different from all products offered by the Postal Service within the meaning of section 3641(b)(1). *Id.* at 5. It has not sold gift cards or any equivalent product in the 2-year period preceding the start of this test. *Id.* at 8.

In addition, the Postal Service contends that the market test will not create an unfair or inappropriate competitive advantage for the Postal Service or any mailer, particularly small business concerns. *Id.* at 9; *see also* 39 U.S.C. 3641(b)(2). Gift cards are available from a variety of retail locations. *Id.* at 8. The Postal Service will market the gift cards in a manner similar to the way that other retail channels market gift cards. *Id.* at 9. The product introduction will have a very small impact on the market, not to exceed 0.5 percent of the open loop gift card market. *Id.* Also, the Postal Service would compete with larger retail chains whereas small businesses have a small part of the overall gift card market, thus resulting in minimal competition with small businesses. *Id.* at 9 n.8.

The Postal Service classifies the product as competitive. *Id.* at 5, 10; *see also* 39 U.S.C. 3641(b)(3). The gift card market is highly competitive. They may be purchased at a large variety of retail locations thus precluding the Postal Service from exercising any market power to charge excessive fees or to provide an inferior product. *Id.* at 10.

The Postal Service states that the duration of the market test will not exceed 24 months unless the Postal Service requests an extension from the Commission, terminates the program, or establishes the Gift Card as a permanent product. *Id.* at 10–11; *see also* section 3641(d)(1).

**Definition of product.** The Postal Service may conduct market tests of experimental products. A “product” is defined by 39 U.S.C. 102(6) as a “postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied.” An experimental product must therefore be consistent with the statutory definition of a “postal service.”

The Postal Service asserts that the sale of gift cards is consistent with the statutory definition of a “postal service.” A “postal service” is defined by 39 U.S.C. 102(5) as “the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto.” The Postal Service notes the Commission has recognized that this definition includes the sale of products “that bear a close nexus to the mails, including products that allow mailers to connect with others on a personal level (greeting cards), and products that allow mailers to send cash equivalents (money orders).” *Id.* at 6.

The Postal Service claims that gift cards would support customers’ mailing needs by providing convenient access to a product that is commonly used for sending gifts through the mail. *Id.*

The Postal Service states that gift cards are commonly sent with greeting cards. It further states that gift cards are very similar to money orders. *Id.* at 7. The Postal Service asserts that gift cards purchased from the Postal Service are likely to be mailed. *Id.* at 8. The Postal Service contends that the nexus between gift cards and mail exists regardless of whether the card is open loop, closed loop, or co-branded with Postal Service imagery and need not contain Postal Service intellectual property to be consistent with the statutory definition of “product.” *Id.* Thus, the Postal Service concludes that gift cards that it may test are consistent with the definition of a postal service. *Id.* at 6.<sup>2</sup>

**Data collection plan.** The Notice also addresses the Postal Service’s plan to collect data to understand the retail costs of selling the product, the value of types of cards, card packaging and card locations to postal consumers, and different price points. The Postal Service indicates that these data may be reported to the Commission upon request. *Id.* at 13.

### III. Notice of Filing

The Commission establishes Docket No. MT2011–2 for consideration of matters raised by the Notice. Interested persons may submit comments on whether the Postal Service’s filing in the captioned docket is consistent with the policies of 39 U.S.C. 3641. Comments

<sup>2</sup> The Postal Service notes that the Commission previously determined the Postal Service’s sale of stored value cards is a nonpostal service, but points out that the ruling was based on the record in that proceeding and other factors. Order No. 154, Docket No. MC2008–1, Review of Nonpostal Services Under the Postal Accountability and Enhancement Act, December 19, 2008, at 47–48.

are due no later than February 4, 2011. Reply comments are due no later than February 15, 2011. The filing can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Robert Sidman to serve as Public Representative in this docket.

#### IV. Ordering Paragraphs

##### *It is ordered*

1. The Commission establishes Docket No. MT2011-2 for consideration of the matters raised by the Notice.

2. Pursuant to 39 U.S.C. 505, Robert Sidman is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons are due no later than February 4, 2011.

4. Reply comments are due no later than February 15, 2011.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**  
*Secretary.*

[FR Doc. 2011-969 Filed 1-18-11; 8:45 am]

**BILLING CODE 7710-FW-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 an Open Meeting on January 20, 2011 at 10 a.m., in the Auditorium, Room L-002.

The subject matter of the Open Meeting will be:

Item 1: The Commission will consider whether to adopt new rules to implement Section 943 of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the use of representations and warranties in the market for asset-backed securities.

Item 2: The Commission will consider whether to adopt rules to implement Section 945 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires an issuer of asset-backed securities (ABS) to perform a review of the assets underlying the ABS and disclose information relating to the review.

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: January 13, 2011.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2011-1114 Filed 1-14-11; 4:15 pm]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

**Release No. 34-63695; File No. SR-FINRA-2010-068**

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify FINRA/Nasdaq Trade Reporting Securities Transaction Credit

January 11, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 30, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. FINRA has designated the proposed rule change as "establishing or changing a due, fee or other charge" under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission. 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

FINRA is proposing to amend FINRA Rule 7610A (Securities Transaction Credit) to modify credits provided to members that use the FINRA/Nasdaq Trade Reporting Facility ("FINRA/Nasdaq TRF").

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

<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)(3)(A)(ii).

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

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

In its filing with the Commission, FINRA 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. FINRA 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

###### Background

The FINRA/Nasdaq TRF is a facility of FINRA that is operated by The NASDAQ OMX Group, Inc. ("NASDAQ OMX"). In connection with the establishment of the FINRA/Nasdaq TRF, FINRA and NASDAQ OMX entered into a limited liability company agreement (the "LLC Agreement"). Under the LLC Agreement, FINRA, the "SRO Member," has sole regulatory responsibility for the FINRA/Nasdaq TRF. NASDAQ OMX, the "Business Member," is primarily responsible for the management of the FINRA/Nasdaq TRF's business affairs, including establishing pricing for use of the FINRA/Nasdaq TRF, to the extent those affairs are not inconsistent with the regulatory and oversight functions of FINRA. Additionally, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the FINRA/Nasdaq TRF.

The FINRA/Nasdaq TRF receives revenue for transactions reported to the three tapes<sup>5</sup> from the Consolidated Tape Association and Nasdaq Securities Information Processor (the "Tapes"). Pursuant to Rule 7610A, FINRA members are provided with a fractional share of this revenue based on their "Market Share."<sup>6</sup> Market Share is

<sup>5</sup> Market data is transmitted to three tapes based on the listing venue of the security: New York Stock Exchange securities ("Tape A"), American Stock Exchange and regional exchange securities ("Tape B"), and Nasdaq Stock Market securities ("Tape C"). Tape A and Tape B are generally referred to as the Consolidated Tape.

<sup>6</sup> Rule 7610A defines Market Share as a percentage calculated by dividing the total number of shares represented by trades reported by a FINRA member to the FINRA/Nasdaq TRF during a given calendar quarter by the total number of shares represented by all trades reported to the Consolidated Tape Association or the Nasdaq