

the State of North Dakota (FEMA-1829-DR), dated 03/24/2009.

Incident: Severe storms and flooding.
Incident Period: 03/13/2009 through 08/10/2009.

Effective Date: 08/10/2009.

Physical Loan Application Deadline Date: 05/26/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 12/24/2009.

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 President's major disaster declaration for Private Non-Profit organizations in the State of North Dakota, dated 03/24/2009, is hereby amended to establish the incident period for this disaster as beginning 03/13/2009 and continuing through 08/10/2009.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-19629 Filed 8-14-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11837 and #11838]

Nebraska Disaster Number NE-00027

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA-1853-DR), dated 07/31/2009.

Incident: Severe storms, tornadoes, and flooding.

Incident Period: 06/05/2009 through 06/26/2009.

Effective Date: 08/10/2009.

Physical Loan Application Deadline Date: 09/29/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 05/03/2010.

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 President's major disaster declaration for Private Non-Profit organizations in the State of Nebraska, dated 07/31/2009, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Chase, Deuel, Lincoln, Perkins.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-19631 Filed 8-14-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11707 and #11708]

North Dakota Disaster Number ND-00016

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of North Dakota (FEMA-1829-DR), dated 04/10/2009.

Incident: Severe storms and flooding.
Incident Period: 03/13/2009 and continuing through 08/10/2009.

DATES: *Effective Date:* 08/10/2009.

Physical Loan Application Deadline Date: 08/10/2009.

EIDL Loan Application Deadline Date: 01/11/2010.

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 President's major disaster declaration for the State of North Dakota, dated 04/10/2009 is hereby amended to establish the incident period for this disaster as beginning 03/13/2009 and continuing through 08/10/2009.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-19632 Filed 8-14-09; 8:45 am]

BILLING CODE 8025-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28845; File No. 812-13680]

GE Asset Management Incorporated and GE Investment Distributors, Inc.; Notice of Application and Temporary Order

August 11, 2009.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 ("Act").

Summary of Application: Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to an injunction entered against General Electric Company ("GE") on August 11, 2009 by the United States District Court for the District of Connecticut ("Injunction"), until the Commission takes final action on an application for a permanent order. Applicants also have applied for a permanent order.

Applicants: GE Asset Management Incorporated ("GEAM") and GE Investment Distributors, Inc. ("GEID", collectively with GEAM, the "Applicants").¹

Filing Date: The application was filed on August 4, 2009, and amended on August 11, 2009.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 8, 2009, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be

¹ Applicants request that any relief granted pursuant to the application also apply to any other company of which GE is or may become an affiliated person (together with the Applicants, the "Covered Persons").

notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090; Applicants: 3001 Summer Street, Stamford, CT 06904-7900.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, at (202) 551-6812, or Mary Kay Frech, Branch Chief, at (202) 551-6821, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a temporary order and a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm>, or by calling (202) 551-8090.

Applicants' Representations

1. GE is a large diversified technology, media, and financial services company. GEAM, a Delaware corporation, is a direct, wholly-owned subsidiary of GE. GEAM is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to a number of registered investment companies ("Funds"), including employees' securities companies ("ESCs").² GEID is, through GEAM, an indirect, wholly-owned subsidiary of GE. GEID is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the Financial Industry Regulatory Authority, Inc. GEID serves as principal underwriter to a number of Funds.

2. On August 11, 2009, the United States District Court for the District of Connecticut entered a final judgment, which included the Injunction, against GE ("Judgment") in a matter brought by the Commission.³ The Commission alleged in the complaint ("Complaint") that, in 2002 and 2003, high level GE accounting executives or other finance personnel approved accounting that was not in compliance with generally accepted accounting principles so as to increase earnings or revenues or to avoid reporting negative financial results. Without admitting or denying

the allegations in the Complaint, except as to jurisdiction, GE consented to the entry of the Judgment that included, among other things, the entry of the Injunction, and a civil penalty of \$50 million.

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from, among other things, engaging in or continuing any conduct or practice in connection with the purchase or sale of a security, or in connection with activities as an underwriter, broker or dealer, from acting, among other things, as an investment adviser or depositor of any registered investment company or a principal underwriter for any registered open-end investment company, registered unit investment trust or registered face-amount certificate company. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company, any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines "affiliated person" to include, among others, any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that GE is an affiliated person of each of the Applicants within the meaning of section 2(a)(3) of the Act. Applicants state that the entry of the Injunction results in Applicants being subject to the disqualification provisions of section 9(a) of the Act.

2. Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to the applicants, are unduly or disproportionately severe or that the applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption. Applicants have filed an application pursuant to section 9(c) seeking a temporary and permanent order exempting them and other Covered Persons from the disqualification provisions of section 9(a) of the Act.

3. Applicants believe they meet the standard for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of the Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a).

4. Applicants state that the alleged conduct giving rise to the Injunction did

not involve either of the Applicants acting in the capacity of investment adviser, subadviser or depositor for any Fund or as principal underwriter for any Fund, and no such Funds bought or held any securities issued by GE during the period of misconduct alleged in the Complaint, other than with respect to index funds. Applicants also state that none of the current or former directors, officers, or employees of the Applicants had any responsibility for, or involvement in, the violative conduct alleged in the Complaint. Applicants further state that the personnel at GE who had any responsibility for, or involvement in, the violations alleged in the Complaint have had no, and will not have any future, involvement in providing investment advisory, subadvisory, or underwriting services to the Funds.

5. Applicants state that their inability to continue to provide investment advisory, subadvisory and underwriting services to the Funds would result in potential hardship for the Funds and their shareholders. Applicants state that they will, as soon as reasonably practical, distribute written materials, including an offer to meet in person to discuss the materials, to the boards of directors of the Funds ("Boards") for which the Applicants serve as investment adviser, investment subadviser or principal underwriter, including the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, of such Funds, and their independent legal counsel as defined in rule 0-1(a)(6) under the Act, relating to the circumstances that led to the Injunction, any impact on the Funds, and the application. Applicants state they will provide the Boards with all information concerning the Judgment and the application that is necessary for the Funds to fulfill their disclosure and other obligations under the Federal securities laws.

6. Applicants also state that, if they were barred from providing services to the Funds, the effect on their businesses and employees would be severe. Applicants state that they have committed substantial resources to establishing expertise in providing advisory and distribution services to Funds. Applicants further state that prohibiting them from providing such services would not only adversely affect their businesses, but would also adversely affect about 500 employees who are involved in those activities.

7. A predecessor of one of the Applicants previously received an exemption under section 9(c) as the result of conduct that triggered section

² The ESCs, as defined in section 2(a)(13) of the Act, are open-end management investment companies registered under the Act and provide investment opportunities for certain employees, officers, and directors of GEAM and its affiliates, and other eligible participants.

³ *Securities and Exchange Commission v. General Electric Company*, Final Judgment as to General Electric Company, 3:09 CV 1235 (RNC) (D. Conn. Aug. 11, 2009).

9(a), as described in greater detail in the application.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including, without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order

The Commission has considered the matter and finds that Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that GEAM and GEID and any other Covered Persons are granted a temporary exemption from the provisions of section 9(a), solely with respect to the Injunction, subject to the condition in the application, from August 11, 2009, until the Commission takes final action on their application for a permanent order.

By the Commission.

Elizabeth M. Murphy,
Secretary.

[FR Doc. E9-19625 Filed 8-14-09; 8:45 am]

BILLING CODE 8010-01-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 Thursday, August 20, 2009 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.

Chairman Schapiro, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, August 20, 2009 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: August 13, 2009.

Elizabeth M. Murphy,
Secretary.

[FR Doc. E9-19798 Filed 8-13-09; 4:15 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60459; File No. SR-Phlx-2009-54]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Order Approving a Proposed Rule Change To Establish Fees for the Top of Phlx Options Direct Data Feed Product

August 7, 2009.

I. Introduction

On June 30, 2009, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its fee schedule by establishing subscriber fees for a direct data product related to the trading of standardized options on the Exchange's enhanced electronic trading platform for options, Phlx XL II.³ Notice of the proposed rule change was published for comment in the **Federal Register** on July 8, 2009.⁴ The Commission received no

comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

In conjunction with the launch and rollout of its Phlx XL II system, the Exchange is developing Top of Phlx Options ("TOPO"), a direct data feed product that includes the Exchange's best bid and offer price, with aggregate size, based on displayable order and quoting interest on the Phlx XL II system. The data contained in the TOPO data feed is identical to the data sent to the processor for the Options Price Regulatory Authority ("OPRA"), and the TOPO and OPRA data will leave the Phlx XL II System at the same time.

In coordination with the projected completion of the rollout of the Phlx XL II system, the Exchange proposes to charge monthly fees to distributors, beginning August 1, 2009, for use of TOPO.⁵ The monthly "Distributor Fee" charged will depend on whether the distributor is an "Internal Distributor" or an "External Distributor."⁶ Specifically, the Exchange proposed to charge Internal Distributors a monthly fee of \$2,000 per organization and to charge External Distributors a monthly fee of \$2,500 per organization.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(4) of the Act,⁸ which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities, and Section 6(b)(5) of

⁵ A "distributor receives a feed or data file of data directly from NASDAQ OMX PHLX or indirectly through another entity and then distributes it either internally or externally. All distributors will be required to execute a NASDAQ OMX PHLX distributor agreement.

⁶ An Internal Distributor is an organization that subscribes to the Exchange for the use of TOPO, and is permitted by agreement with the Exchange to provide TOPO data to internal users (*i.e.*, users within their own organization). An External Distributor is an organization that subscribes to the Exchange for the use of TOPO, and is permitted by agreement with the Exchange to provide TOPO data to both internal users and to external users (*i.e.*, users outside of their own organization).

⁷ 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).

⁸ 15 U.S.C. 78f(b)(4).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32).

⁴ See Securities Exchange Act Release No. 60202 (June 30, 2009), 74 FR 32675 ("Notice").