Electronic Memorandum

To: Paul T. Sorrow, Acting National President; BLET Advisory Board; All BLET General Chairmen; All BLET State Legislative Board Chairmen
Cc: A. Dan Cook, III, Director of Benefits; Stephen J. Bruno, Director of Regulatory Affairs; Kathleen N. Policy, Legislative, Political & Regulatory Coordinator; John Bentley, Jr., Editor
From: Thomas A. Pontolillo, Assistant to the President and Director of Research
Date: October 31, 2009
Re: 2010 Railroad Unemployment Insurance Act Determinations

The attached notice regarding Railroad Unemployment Insurance Act ("RUIA") determinations for next year will be published in the Federal Register on Monday, November 2, 2009. Of particular note are the following:

- The RUIA surcharge rate for calendar year 2010 will remain at 1.5%.
- The RUIA monthly compensation base for calendar year will remain at $1,330.00.
- The maximum daily benefit rate for the benefit year beginning July 1, 2010, will increase from the current $64.00 to $66.00.

Given the significant decline in industry employment due to the national economy, I was somewhat surprised that there was no increase in the surcharge. However, the RUIA account balance at the end of June was nearly $75 million. Therefore, the system continues to be stable, notwithstanding high levels of unemployment.

approximately 30 minutes to complete the form. The annual burden is 750 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–0623, FAX (202) 606–0910 or via E-mail to *Cyrus.Benson@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500 and OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–0623.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. E9–26314 Filed 10–30–09; 8:45 am]

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RAILROAD RETIREMENT BOARD

2010 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2009, is $73,515,830.17;

2. The September 30, 2009, balance of any new loans to the RUI Account, including accrued interest, is zero;

3. The system compensation base is $3,712,573,424.54 as of June 30, 2009;

4. The cumulative system unallocated charge balance is ($319,754,784.70) as of June 30, 2009;

5. The pooled credit ratio for calendar year 2010 is zero;

6. The pooled charged ratio for calendar year 2010 is zero;

7. The surcharge rate for calendar year 2010 is 1.5 percent;

8. The monthly compensation base under section 1(i) of the Act is $1,330 for months in calendar year 2010;

9. The amount described in sections 1(k) and 3 of the Act as ''2.5 times the monthly compensation base'' is $3,325 for base year (calendar year) 2010;

10. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $3,325 with respect to disqualifications ending in calendar year 2010;

11. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $1,718 for months in calendar year 2010;

12. The maximum daily benefit rate under section 2(a)(3) of the Act is $66 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2010.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2009. The balance in notice (2) is based on data as of September 30, 2009. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2010. The determinations made in notices (8) through (11) are effective January 1, 2010. The determination made in notice (12) is effective for registration periods beginning after June 30, 2010.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2009, the computation of the calendar year 2010 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2010, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2010.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The system compensation base as of June 30, 1991 was $2,763,287,237.04. The system compensation base for June 30, 2009 was $3,712,573,424.54. The ratio of $3,712,573,424.54 to $2,763,287,237.04 is 1.34353511. Multiplying 1.34353511 by $100 million yields $134,353,511. Multiplying $50 million by 1.34353511 produces $67,176,756. The Account balance on June 30, 2009, was $73,515,830.17. Accordingly, the surcharge rate for calendar year 2010 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2010 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A—37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2010 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 2010 tier 1 tax base is $106,800. Subtracting $37,800 from

$106,800 produces $69,000. Dividing $69,000 by $56,700 yields a ratio of 1.21693122. Adding one gives 2.21693122. Multiplying $600 by the amount 2.21693122 produces the amount of $1,330.16, which must then be rounded to $1,330. Accordingly, the monthly compensation base is determined to be $1,330 for months in calendar year 2010.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 3, 4(a–2)(i)(A) and 2(c) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends.

Multiplying 2.5 by the calendar year 2010 monthly compensation base of $1,330 produces $3,325. Accordingly, the amount determined under sections 1(k), 3 and 4(a–2)(i)(A) is $3,325 for calendar year 2010.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.

The calendar year 2010 monthly compensation base is $1,330. The ratio of $1,330 to $600 is 2.21666667. Multiplying 2.21666667 by $775 produces $1,718. Accordingly, the amount determined under section 2(c) is $1,718 for months in calendar year 2010.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2010, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 2009 monthly compensation base is $1,330. Multiplying $1,330 by 0.05 yields $66.50, which must then be rounded down to $66. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2010, is determined to be $66.

Dated: October 27, 2009.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. E9–26298 Filed 10–30–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60873; File No. SR–Phlx–2009–91]

Self-Regulatory Organizations; The NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Expansion and Extension of the Exchange's Penny Pilot Program

October 23, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on October 16, 2009, NASDAQ OMX PHLX, Inc. (''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 is filing with the Commission a proposal to amend its Rule 1034 to: (1) Extend through December 31, 2010, the Penny Pilot in options classes in certain issues (''Pilot Program'' or ''Pilot''); (2) expand the number of issues included in the Pilot Program; and (3) replace, on a semi-annual basis, any Pilot Program issues that have been delisted.[3]

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii).[4]

The text of the proposed rule change is available on the Exchange's Website at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/* at the principal office of the Exchange, and at 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 proposal is to: Extend the time period of the Pilot Program, which is currently scheduled to expire on October 31, 2009, through December 31, 2010; expand the number of issues included in the Pilot Program; and enable the Exchange to replace, on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR–Phlx–2006–74) (notice of filing and approval order establishing Penny Pilot). *See also* Securities Exchange Act Release No. 60211 (January 1, 2009), 74 FR 33001 (January 9, 2009) (SR–Phlx–2009–51) (notice of filing and immediate effectiveness extending Penny Pilot through October 31, 2009).

[4] 17 CFR 240.19b–4(f)(6)(iii).