

Office of Personnel Management.

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Chief of Staff/Director of External Affairs.

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POSTAL REGULATORY COMMISSION

[Docket No. MC2006-7; Order No. 4]

Stamped Stationery and Cards

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that the Postal Service proposes classification and fees for certain stamped stationery and cards. It identifies preliminary procedural steps, including the likelihood of a settlement teleconference. This information provides interested persons with an opportunity to participate in this case.

DATES: March 22, 2007: Deadline for intervention and responses to waiver motion; April 3, 2007: Prehearing conference, 10 a.m. in the Commission's hearing room.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202-789-6820 and stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: *Regulatory History*, 71 FR 51651 (August 30, 2006).

I. Background

In Order No. 1475, the Commission found stamped stationery to be a postal service and concurrently established Docket No. MC2006-7 for the purpose of receiving a request from the Postal Service establishing a classification and fee schedule for stamped stationery.¹ On February 22, 2007, the Postal Service filed a request for a recommended decision to establish classifications and fees for Premium Stamped Stationery (PSS) and Premium Stamped Cards (PSC).²

In contemporaneous filings, the Postal Service submitted a conditional motion for waiver of the filing requirements³

¹ See PRC Order No. 1475, August 24, 2006 and PRC Order No. 1476, August 24, 2006.

² Request of the United States Postal Service for a Recommended Decision to Establish Classifications and Fees for Premium Stamped Stationery and Premium Stamped Cards, February 22, 2007 (Request).

³ Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, February 22, 2007 (Motion for Waiver).

and a notice of a settlement teleconference.⁴ The Request, accompanying testimony of witness Yeh (USPS-T-1), and related material are available for review in the Commission's docket room during regular business hours. They may also be accessed electronically, via the Internet, on the Commission's Web site (<http://www.prc.gov>).

II. Proposed Classifications

Premium stamped stationery is sold by the Postal Service in pads consisting of 12 sheets of quality stock paper, featuring a design and imprinted with matching postage stamps. Each pre-stamped sheet has room for the name and address of the recipient and, on the reverse side, space for writing a message. Each sheet is designed to be folded, sealed, and mailed. Request at 1.

Premium stamped cards are sold by the Postal Service in booklets or packets, consisting of 10 to 20 cards of quality stock paper, imprinted with postage and featuring designs related to the imprinted postage. Each pre-stamped card has room for the name and address of the recipient on the right-hand side and space for a message on the left. The theme of the card adorns the reverse side of the card. *Id.* at 2.

The Postal Service denotes each of these services as "premium" to distinguish them from more utilitarian stamped envelopes and stamped cards that are already in the Domestic Mail Classification Schedule (DMCS). DMCS 961 and 962. The Postal Service proposes to amend the DMCS with separate provisions and fee schedules for PSS and PSC. *See* Request, Attachments A and B.

The Postal Service proposes, as more fully explained in the testimony of witness Yeh (USPS-T-1 at 2-6), a fee structure establishing a range of fees between minimum and maximum levels tied to the then-current First-Class Mail letter or card rate.⁵ The Postal Service proposes to allow the range to change automatically with and in direct proportion to future changes in the applicable First-Class Mail letter or card rate. Under the proposal, the Postal Service would be authorized to change

⁴ Notice of Settlement Teleconference, February 22, 2007 (Notice).

⁵ The proposed minimum fee for PSS is 2 times the First-Class Mail letter rate and for PSC is 1 times the First-Class Mail card rate. The proposed maximum fee for PSS is 3 times the First-Class Mail letter rate. USPS-T-1, Attachment A, workpaper PSSPSC-WP1. The proposed maximum fee for PSC apparently is 3 times the First-Class Mail card rate. *Id.* at 10, Attachment A, workpapers PSSPSC-WP1 and WP2; but see USPS-T-1 at 5, lines 1-3. The Postal Service should reconcile these statements.

the fee within the range upon public notice.

The Postal Service notes that in Order No. 1475 the Commission identified stamped stationery as a specialty product that may justify a novel pricing approach, including the possibility of rate bands consisting of minimum and maximum fees with the Postal Service authorized to flex the fee within that range upon public notice. Request at 2-3; *see also* PRC Order No. 1475, *supra*, at 13-14. The Postal Service indicates that its proposed fee structure generally follows the approach suggested illustratively by the Commission. Request at 2.

III. Conditional Request for Waiver of Filing Requirements

In support of its Request, the Postal Service states that its Compliance Statement (Attachment E to the Request) identifies information contained in its testimony and supporting documentation intended to satisfy the filing requirements of rules 54 and 64 of the Commission's Rules of Practice and Procedure. Request, Attachment E at 1.⁶ The Postal Service notes that it has incorporated by reference pertinent materials from Docket No. R2006-1, the most recent omnibus rate case, and material periodically filed with the Commission. It asserts that that incorporation satisfies the filing requirements pertaining to classes of mail and special services. *Id.*

In addition, the Postal Service contends that the establishment of classifications and fees for Premium Stamped Stationery and Premium Stamped Cards represents new DMCS subsections and fees, providing an option for customers with very little impact on postal costs, volume, and revenues. It also asserts that there is substantial overlap between information sought in the general filing requirements and the materials provided in Docket No. R2006-1. *Id.* at 1-2.

Alternatively, the Postal Service requests a waiver of certain filing requirements if the Commission concludes that the materials incorporated by reference are not sufficient to satisfy those requirements. *Id.* at 3.⁷

IV. Notice of Settlement Teleconference

In its Request, the Postal Service indicates that despite its best intentions

⁶ Motion for Waiver at 1. The Motion for Waiver also references rule 162, which concerns market tests. That reference is inapposite.

⁷ In support of its conditional motion, the Postal Service cites 39 CFR 3001.54(r), 3001.64(h)(3), and 3001.67a. The reference to rule 67a, which concerns experimental changes, is inapposite.

it was unable to engage in any pre-filing consultations with participants due to the press of other business. The Postal Service states, however, that it informed participants (from Docket No. C2004-3) of its intention to file this Request, that it is committed to engage in settlement discussions, and that it encouraged participants to engage in informal requests for additional information before commencing formal discovery to develop a record in pursuit of a mutually agreeable settlement agreement. Request at 3-4.

The Postal Service reads Order No. 1475 as authorizing settlement procedures in this proceeding and thus has not requested that such procedures be established. *Id.* at 4. Instead, the Postal Service filed a Notice of Settlement Teleconference advising participants to inform it of their availability to participate in such a conference during the period March 5 through March 23, 2007. Notice at 1.

V. Commission Response

Intervention. Order No. 1476 set the due date for notices of intervention at 28 days following submission of the Postal Service's Request. Since the Request was filed February 22, 2007, notices of intervention from any interested persons are due no later than March 22, 2007. The notice of intervention shall be filed electronically via the Commission's Web site (*see* Filing Online), unless a waiver is obtained for hardcopy filing. 39 CFR 3001.9(a) and 10(a). Notices should indicate whether participation will be on a full or limited basis. *See* 39 CFR 3001.20 and 3001.20a. No decision has been made at this point on whether a hearing will be held in this case.

Settlement. In Order No. 1475, the Commission suggested that the Postal Service may wish to engage participants in a pre-filing dialogue "in an effort to fashion a broadly acceptable pricing approach." PRC Order No. 1475 at 15 (footnote omitted). As noted above, the Postal Service's efforts to do so were thwarted by the press of other business. Its proposal to conduct a settlement teleconference is reasonable, particularly given the dispersed geographic location of the participants.

The Commission appoints Postal Service counsel as settlement coordinator. In this capacity, Postal Service counsel shall file periodic reports on the status of settlement discussions. At a minimum, a periodic report on the status of settlement discussions shall be filed no later than two business days prior to the prehearing conference scheduled herein. The Commission authorizes the

settlement coordinator to hold one or more settlement teleconferences from March 5-28, 2007. In addition, the Commission will make its hearing room available for conducting settlement conferences. Authorization of settlement discussions does not constitute a finding on the necessity of hearings in this case.

Prehearing conference. A prehearing conference will be held April 3, 2007, at 10 a.m. in the Commission's hearing room. Participants shall be prepared to identify any issue(s) that would indicate a need to schedule a hearing, along with other matters referred to in this order.

Conditional Motion for Waiver. Participants may comment on the Postal Service's conditional motion to waive certain filing requirements. Responses to the Postal Service's Motion for Waiver are due on or before March 22, 2007.

Representation of the general public. In initiating this proceeding, the Commission designated Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in this proceeding. *See* PRC Order No. 1476 at 2-3.

Administrative matter. The docket name has been modified to reflect the inclusion of stamped cards in the Postal Service's Request.

Ordering Paragraphs

It is ordered:

1. The Commission will consider the Postal Service Request referred to in the body of this order in Docket No. MC2006-7.
2. The Commission will sit *en banc* in this proceeding.
3. Postal Service counsel is appointed to serve as settlement coordinator in this proceeding.
4. The deadline for filing notices of intervention is March 22, 2007.
5. A prehearing conference will be held April 3, 2007 at 10 a.m. in the Commission's hearing room.
6. Responses to the Postal Service's Motion for Waiver of certain filing requirements are due on or before March 22, 2007.
7. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Steven W. Williams,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-27745; 812-13344]

BLDRS Index Funds Trust, et al.; Notice of Application

February 28, 2007.

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

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 2(a)(32), 4(2), 22(d), 24(d) and 26(a)(2)(C) of the Act and rule 22c-1 under the Act; under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act; and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order that would permit: (a) BLDRS Index Funds Trust (the "Fund"), a unit investment trust ("UIT") with multiple series (each series, a "Trust") whose portfolios will consist of the component stocks of various specified indices (collectively, the "Benchmark Indices," and each, a "Benchmark Index"), to issue shares ("Trust Shares") that are only redeemable in large aggregations; (b) secondary market transactions in Trust Shares to occur at negotiated prices; (c) dealers to sell Trust Shares to purchasers in the secondary market unaccompanied by a prospectus when prospectus delivery is not required by the Securities Act of 1933 ("Securities Act"); (d) the Trusts, rather than the Sponsor (as defined below), to bear certain expenses associated with maintaining the Trusts; (e) certain "affiliated persons" of the Trusts to deposit securities into, and receive securities from, the Trusts in connection with the purchase and redemption of Trust Shares; and (f) the Trusts to reimburse the Sponsor for payment of an annual licensing fee to The Bank of New York ("BoNY").

APPLICANTS: The Fund, PowerShares Capital Management LLC ("PowerShares," together with its successor in interest¹ and with any person, directly or indirectly, controlling, controlled by, or under common control with, PowerShares, "Sponsor"), and ALPS Distributors, Inc. ("Distributor").

FILING DATES: The application was filed on November 20, 2006. Applicants have

¹ "Successors in interest" means any entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.