



Notice, Pursuant to Exchange By-law 18-2, of Disciplinary Action Merrill Lynch, Pierce, Fenner & Smith, Inc., Member Organization

To: Members, Member Organizations, Participants and Participant Organizations
From: John C. Pickford, Enforcement Counsel, NASDAQ OMX PHLXSM
DATE: December 8, 2011

NASDAQ OMX PHLX No. 11-08-24 Enforcement No. 2011-07

On December 7, 2011, the Business Conduct Committee (the "Committee") issued a disciplinary decision against Merrill Lynch, Pierce, Fenner & Smith, Inc. ("ML"), a member organization of the Exchange. In response to a Statement of Charges issued in this action, ML submitted an Offer of Settlement, Stipulation of Facts and Consent to Sanctions ("Offer"). Solely to settle this proceeding, and without admitting or denying the charges, ML consented to findings that it violated Exchange Rule 1001 four times by: (i) exceeding the options position limit of 250,000 contracts by 32,851, 26,379, 25,230, and 23,646 contracts respectively. ML's Offer was accepted by the Committee and was the basis of its Decision.

The Committee found that ML violated Exchange Rule 1001, concurred in the sanctions consented to by it, and ordered the imposition of the following sanctions: (i) a censure and (ii) a fine of \$20,000.

For more information, contact:

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