



# THE OPTIONS CLEARING CORPORATION

#26948

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**DATE:** FEBRUARY 5, 2010

**SUBJECT:** BURLINGTON NORTHERN SANTE FE CORPORATION (ELECTION MERGER) – ANTICIPATED ADJUSTMENT  
OPTION SYMBOLS: BNI/BWM/VNI/ZBN/WBU  
NEW SYMBOLS: BNN/BKW/VQI/ZBD/WOU  
FUTURES SYMBOL: BNI1C  
NEW SYMBOL: BNI2C  
DATE: 02-12-10 ??? (ELECTION DEADLINE: 02-10-10 ???)  
\*\*\*UPDATE\*\*\*

On February 11, 2010, Shareholders of Burlington Northern Sante Fe Corporation (BNI) will vote concerning a proposed merger with Berkshire Hathaway Inc. (BRK.A & BRK.B).

## [The Merger: Aggregate Terms](#)

If the merger is approved and consummated, BNI Common Shares will be converted as follows:

Approximately 40% of all outstanding BNI Common Shares will be converted into an amount of BRK Class A Common Shares between 0.000802233 and 0.001253489 per BNI Share, subject to prorations and reallocations (Stock Consideration). Fractional shares of BRK.A will not be issued in the merger. If application of the exchange ratio results in fractional BRK.A shares, BNI Shareholders would instead receive an amount of BRK.B shares equal in value to the fractional Class A shares. Cash will be paid in lieu of fractional BRK.B Shares.

An amount of all outstanding BNI Common Shares will be converted into \$100.00 Cash per BNI Share, subject to prorations (Cash Consideration).

## [The Merger: Individual Share Elections](#)

Within the terms of the aggregate merger, individual BNI Shareholders may:

Elect to receive BRK Class A Common Shares for each BNI Common Share (Stock Election). Stock elections will be subject to prorations and reallocations. OR,  
Elect to receive \$100.00 Cash for each BNI Common Shares (Cash Election). Cash elections will be subject to prorations. OR,  
Elect to receive a combination of stock and cash, subject to prorations (Mixed Election).  
OR,

Register no preference by not making an election (Non-Election).

Under the terms of the election, shares which are not subject to an effective election will be treated as cash-electing shares if the BRK.A average trading value as described in the prospectus is less than \$79,777.34; stock-electing shares if the BRK.A trading value is more than \$124,652.09; cash or stock electing shares as necessary in order to achieve the 60/40 cash/stock split if the BRK.A trading value is within the collar.

Elections must be submitted to the Exchange Agent: Wells Fargo Bank, N.A. The election deadline is 5:00 PM New York City Time on the second business day prior to the effective time of the merger, unless extended. The effective date of the merger is expected to be February 12, 2010. BNI Shareholders must observe all terms and conditions for the election as specified in the Proxy Statement/Prospectus. Among such items, it should be noted that BNI Shares may **not** be delivered pursuant to an election under Notices of Guaranteed Delivery. **BNI CALL OPTION HOLDERS WHO INTEND TO PARTICIPATE IN THE ELECTION MUST EXERCISE THEIR OPTIONS AT LEAST THREE DAYS IN ADVANCE OF THE ELECTION DEADLINE.** In all cases, Call option holders exercising in order to obtain stock for an election must exercise in sufficient time to be able to make valid delivery pursuant to the election procedures.

### **The Merger Consideration: Prorations**

Stock/Cash and Mixed Elections will be subject to prorations as described in the BNI Proxy Statement/BRK Prospectus.

### **Effective Date of the Merger**

The merger is expected to be completed on February 12, 2010.

### **CONTRACT ADJUSTMENT**

DATE: Effective the opening of the business day after the merger is consummated.

OPTION SYMBOLS: BNI becomes BNN  
BWM becomes BKW  
VNI becomes VQI  
ZBN becomes ZBD  
WBU becomes WOU

STRIKE DIVISOR: 1

CONTRACT MULTIPLIER: 1

MULTIPLIER 100 (e.g., for premium or strike price extensions, 1.00 equals \$100)

NEW DELIVERABLE

PER CONTRACT: The deliverable for adjusted BNI/BWM/VNI/ZBN/WBU options will be BASED ON THE MERGER CONSIDERATION WHICH ACCRUES TO NON-ELECTING BNI SHAREHOLDERS (stated in terms of a current 100-Share deliverable). The adjusted deliverable may be cash, stock, or a combination of cash and stock.

SETTLEMENT: Delayed, pending determination of the exact deliverable amount

### **Important Exercise Considerations**

After the merger is consummated and the contract adjustment described above is effected, outstanding adjusted BNI/BWM/VNI/ZBN/WBU Call option holders will receive upon exercise (and Put holders deliver upon exercise) the aggregate Non-Electing merger consideration (on a per contract basis). IF BNI/BWM/VNI/ZBN/WBU CALL OPTION HOLDERS DO NOT WISH TO RECEIVE THE NON-ELECTING CONSIDERATION UPON EXERCISE AFTER THE CONTRACT ADJUSTMENT, THEY MUST EXERCISE AT LEAST THREE DAYS IN ADVANCE OF THE ELECTION DEADLINE AND SUBMIT ELECTIONS PURSUANT TO THE ELECTION PROCEDURES DESCRIBED IN THE PROXY STATEMENT/ PROSPECTUS.

Exercisers must exercise in sufficient time, and observe all terms and conditions for making a valid election (See: The Election).

### **FUTURES CONTRACT ADJUSTMENT**

DATE: Effective the opening of the business day after the merger is consummated.

FUTURES SYMBOL: BNI1C becomes BNI2C

NUMBER OF CONTRACTS: No Change

MULTIPLIER 100 (e.g., for premium or strike price extensions, 1.00 equals \$100)

NEW DELIVERABLE PER CONTRACT: The deliverable for adjusted BNI1C futures will be BASED ON THE MERGER CONSIDERATION WHICH ACCRUES TO NON-ELECTING BNI SHAREHOLDERS (stated in terms of a current 100-Share BNI1C deliverable). The adjusted deliverable may be cash, stock, or a combination of cash and stock.

### **Delivery Settlement and Protect Provisions**

Option contracts which are exercised, and physically-settled security futures contracts which mature, will require the settlement of all component securities included in the contract deliverable at the time of the futures contract maturation or option contract exercise, including rights, warrants, or similar instruments. Additional entitlements (such as due bills, eligibility to participate in tender offers, elections, etc.) may also automatically attach to securities deliverable upon physically-settled futures contract maturity or option exercise. Conversely, securities not included in the

contract deliverable at the time of the option exercise or futures contract maturity, or other entitlements not associated with the underlying deliverable securities, may preclude holders of long futures contracts from realizing the benefit of such entitlements. For example, if a physically-settled security futures underlying security is the subject of a tender offer, exchange offer, or similar event which expires *before* the futures contract reaches its maturity, the securities due to long futures holders upon maturity *will not* be eligible for participation in the tender/exchange offer.

Conversely, if such tender offer, exchange offer or similar event expires *after* the futures contract matures, securities deliverable to long futures holders *will* be eligible for participation in these events.

Except in unusual cases, securities deliverable as a result of equity option exercise or the maturity of physically-settled security futures are settled through National Securities Clearing Corporation (NSCC).

Rights and obligations of Members with respect to securities settling at NSCC as a result of an option exercise or assignment or a physically-settled security future delivery or receipt obligation are governed by the rules of NSCC. NSCC has its own rules which enable purchasers of securities to protect themselves for value which may be lost if timely delivery is not made to them of securities subject to specific deadlines, such as the expiration of a tender offer, rights subscription, election, or similar event. These rules are generally called protect or liability notice procedures, and are intended to protect purchasers by binding the delivering parties to liability if such value is lost because timely delivery is not effected. Purchasers of securities must observe the rules and procedures of NSCC to avail themselves of such "protect" provisions of NSCC. Questions regarding these provisions should be addressed to NSCC.

### **Special Risks**

Writers of call options and holders of short positions in physically-settled security futures at maturity who are uncovered with respect to deliverable securities subject to deadlines or cut-off times (such as expirations of tender offers, rights subscriptions, elections, or similar events) should be aware of a risk associated with the timing of their possible assignments or physically-settled security futures delivery obligations: Equity option exercise settlement and settlement of physically-settled security futures delivery obligations normally occurs 3 business days after the option exercise date or the security-futures maturity date. An uncovered call writer or uncovered short futures holder who has an obligation to deliver, and who waits until after assignment or futures maturity to effect purchase of the underlying security, may not be able to effect timely delivery by a regular-way purchase (3 business-day settlement) or call option exercise (3 business-day settlement after exercise). Such uncovered writer or short futures holder may nevertheless be subject to liability under the protect provisions of NSCC (see above) with respect to his delivery obligation, because he cannot make timely delivery. Additionally, Cash Markets (same-day, or less-than-3-business-day settlement) may not be available, or may be expensive for buyers of the underlying security.

### **DISCLAIMER**

This Information Memo provides an unofficial summary of the terms of corporate events affecting listed options or futures prepared for the convenience of market participants. OCC accepts no responsibility for the accuracy or completeness of the summary, particularly for information which may be relevant to investment decisions. Option or futures investors should independently ascertain and evaluate all information concerning this corporate event(s).

The determination to adjust options and the nature of any adjustment is made by a panel of The OCC Securities Committee pursuant to OCC By-Laws, Article VI, Sections 11 and 11A. The adjustment panel is comprised of representatives from OCC and each exchange which trades the affected option. The determination to adjust futures and the nature of any adjustment is made by OCC pursuant to OCC By-Laws, Article XII, Sections 3, 4, or 4A, as applicable. For both options and futures, each adjustment decision is made on a case by case basis. Adjustment decisions are based on information available at the time and are subject to change as additional information becomes available or if there are material changes to the terms of the corporate event(s) occasioning the adjustment.

CATEGORY:           CONTRACT ADJUSTMENT  
SUB-CATEGORY:     ELECTION MERGER

**For questions regarding this memo, call 1-888-OPTIONS or email [options@theocc.com](mailto:options@theocc.com).**