



Regulatory Circular 10-002

Date: March 9, 2010

To: ETP Holders

From: James C. Yong
Chief Regulatory Officer

Re: SEC's Section 31 Transaction Fee Rate Reduction
NSX Regulatory Transaction Fee

The Investor and Capital Markets Relief Act (the "Fee Relief Act") amended Section 31 of the Securities Exchange Act of 1934 (the "Act") to change the fee rates applicable under subparagraphs (b) and (c) of Section 31. The Fee Relief Act requires the Securities and Exchange Commission ("Commission") to make annual adjustments to the fee rates applicable under Section 31(b) and (c) for each of the fiscal years 2003 through 2011, and one final adjustment to fix the fee rates for fiscal 2012 and beyond. Section 31(j) of the Act requires the Commission to make a Mid-Year adjustment under certain circumstances.

Pursuant to these sections, on March 1, 2010, the Commission announced that "effective April 1, 2010, , the Section 31 fee rate applicable to securities transactions on the exchanges and certain over-the-counter markets will increase from \$12.70 per million dollars **to \$16.90 per million dollars.**" (Emphasis added.) The Commission's release is attached to this Regulatory Circular for your convenience. See, *Fee Rate Advisory #5 for Fiscal Year 2010, Rel. 2010-029*.

As a result, for transactions with settlement dates on and after April 1, 2010, the National Stock Exchange, Inc. (the "Exchange" or "NSX") will adjust its Regulatory Transaction Fee assessed to ETP Holders under NSX Rule 16.1(b) accordingly. This is the fee the Exchange uses to help fund the Exchange's Section 31 fee obligations to the Commission.

If you have any questions, please call me at 312.786.8893.



U.S. Securities and Exchange Commission

Fee Rate Advisory #5 for Fiscal Year 2010

FOR IMMEDIATE RELEASE 2010-29

Washington, D.C., March 1, 2010 — Pursuant to Section 31 of the Securities Exchange Act of 1934, the Commission has determined that a mid-year adjustment to the Section 31 transaction fee rate is necessary. Effective on April 1, 2010, the Section 31 transaction fee rate will be set at \$16.90 per million.

The Exchange Act requires the Commission to adjust the Section 31 fee rate if it estimates that the baseline estimate of dollar volume that was used to calculate the annual adjusted rate for fiscal year 2010 is reasonably likely to be 10 percent (or more) greater or less than the actual dollar volume of securities transactions for fiscal year 2010. The Commission determined the mid-year adjustment using a methodology developed in consultation with the Congressional Budget Office and the Office of Management and Budget, as required by Section 31(j)(2) of the Exchange Act. This methodology used market projections based on the most recent information on dollar volume of securities transactions thus far in fiscal year 2010. A copy of the Commission's order and calculation methodology is available at <http://www.sec.gov/rules/other/2010/34-61605.pdf>.

This rate change does not apply to the Section 31 assessment on security futures transactions, which will remain at the current rate of \$0.0042 per round turn transaction.

The Office of Interpretation and Guidance in the Commission's Division of Trading and Markets is also available for questions on Section 31 at (202) 551-5777, or by e-mail at tradingandmarkets@sec.gov. In addition, useful guidance on Section 31 can be found on the SEC's website at <http://www.sec.gov/divisions/marketreg/sec31feesbasicinfo.htm> and <http://www.sec.gov/divisions/marketreg/sec31info.htm>.

The Commission will announce the fiscal year 2010 rates for fees paid under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g), and 31 of the Exchange Act no later than April 30, 2010. Those rates will become effective on Oct. 1, 2010, or 30 days after the date on which the Commission receives its fiscal year 2011 regular appropriation, whichever date comes later.

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<http://www.sec.gov/news/press/2010/2010-29.htm>