



## Regulatory Circular 06-031

Date: December 11, 2006

To: ETP Holders

From: James C. Yong  
Chief Regulatory Officer

Re: SEC's Section 31 Transaction Fee Rate

The Investor and Capital Markets Relief Act (the "Fee Relief Act") amended Section 31 of the Securities Exchange Act of 1934 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.

In May 2006, the Commission announced that "effective Oct. 1, 2006, or 30 days after the date on which the Commission receives its fiscal year 2007 regular appropriation, **whichever dates comes later**, the Section 31 fee rate applicable to securities transactions on the exchanges and certain over-the-counter markets will decrease to \$15.30 per million from the current rate of \$30.70 per million." (Emphasis added.) See, *SEC Announces Billion Dollar Fee Cut to Benefit Investors*, Rel. 2006-64; *NSX Regulatory Circular 06-009*. The Commission has been operating under a continuing resolution for fiscal year 2007 since October 1, 2006, and, thus, the Section 31 fee has not changed from its current rate.

On December 8, 2006, the Commission announced that the continuing resolution funding the Commission for fiscal year 2007 has been extended through February 15, 2007. See, *Fee Rate Advisory #5 for Fiscal Year 2007*, Rel. 2006-203 (which is attached to this Circular). As a result, the fees paid under Section 31 will remain at their current rate of \$30.70 per million until 30 days after the Commission receives its fiscal year 2007 regular appropriation.

Once the Commission's Section 31 fee is reduced in accordance with its announcements, the National Stock Exchange, Inc.<sup>®</sup> (the "Exchange" or "NSX<sup>SM</sup>") will accordingly adjust its regulatory transaction fee assessed to ETP Holders under NSX Rules that the Exchange uses to help fund the Exchange's Section 31 fee obligations to the Commission. We will update you when the regulatory transaction fee assessed to ETP Holders is adjusted.

Any further questions can be directed to me at 312.786.8893.



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U.S. Securities and Exchange Commission

## Fee Rate Advisory #5 for Fiscal Year 2007

### FOR IMMEDIATE RELEASE 2006-203

Washington, D.C., Dec. 8, 2006 - The continuing resolution funding the Securities and Exchange Commission for fiscal 2007 since Oct. 1, 2006, been extended further through Feb. 15, 2007. Therefore, fees paid under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g) and of the Securities Exchange Act of 1934 will remain at their current rates.

Five days after the date of enactment of the Commission's regular fiscal year 2007 appropriation, the Section 6(b) fee rate applicable to the registration of securities, the Section 13(e) fee rate applicable to the repurchase of securities, and the Section 14(g) fee rate applicable to prospectuses and statements in corporate control transactions will decrease to \$30.70 per million dollars from the current rate of \$107.00 per million dollars, as previously announced.

In addition, thirty days after the date of enactment of the Commission's regular appropriation, the Section 31 fee rate applicable to securities transactions on the exchanges and in the over-the-counter markets will decrease to \$15.30 per million dollars from the current rate of \$30.70 per million dollars. On that same date, the assessment on security futures transactions under Section 31(d) will decrease to \$0.0042 for each round turn transaction from the current rate of \$0.009 for each such transaction.

Additional information on the transition to the new Section 31 fee rate will be available on the Internet websites of the New York Stock Exchange and the NASD at <http://www.nyse.com> and <http://www.nasd.com>, respectively. The Division of Market Regulation's Office of Interpretation and Guidance is also available to answer questions relating to Section 31. That office may be reached by phone at 202-551-5777 or by email at [marketreg@sec.gov](mailto:marketreg@sec.gov).

A copy of the Commission's April 28, 2006, order regarding fee rates for fiscal year 2007 is available at <http://www.sec.gov/rules/other/2006/338681.pdf>.

The Commission will issue further notices as appropriate to keep the public informed of developments relating to enactment of the Commission's regular appropriation and the effective dates for the above fee rate changes. These notices will be posted at the SEC's Internet web site at <http://www.sec.gov>.