

Notice to Members

AUGUST 2004

INFORMATIONAL

SUGGESTED ROUTING

Finance
Legal & Compliance
Operations
Senior Management

KEY TOPICS

Section 31 of the Exchange Act
Section 3 of Schedule A to the NASD
By-Laws
Transaction Fees

Transaction Fees

New SEC Procedures Relating to Section 31 of the Securities Exchange Act of 1934

Executive Summary

Pursuant to Section 31 of the Securities Exchange Act of 1934 (Exchange Act), NASD, as a national securities association, and the national securities exchanges are required to pay transaction fees and assessments to the Securities and Exchange Commission (SEC) that are designed to recover the costs related to the government's supervision and regulation of the securities markets and securities professionals. On June 28, 2004, the SEC established new procedures governing the calculation, payment, and collection of fees and assessments on securities transactions owed by national securities exchanges and associations to the SEC pursuant to Section 31.¹

In accordance with the new procedures, NASD must now provide the SEC with trade data, which the SEC will use to calculate the amount of fees and assessments due by NASD. NASD is issuing this *Notice* to inform member firms of the new SEC procedures relating to Section 31 of the Exchange Act. While the requirements of Section 31, including the new procedures established by the SEC, apply directly to NASD and the national securities exchanges and not their membership, NASD members also should be aware of these requirements. In accordance with Section 3 of Schedule A to the NASD By-Laws, NASD obtains the funds to pay its Section 31 fees and assessments from its membership. Accordingly, as discussed in this *Notice*, the new procedures adopted by the SEC will have an effect on the obligations of member firms under Section 3 of Schedule A.

Questions/Further Information

Questions concerning this *Notice* may be directed to Rob Renner, Director of Accounting Operations, NASD Finance, at (240) 386-5303; Kathleen O'Mara, Associate General Counsel, Office of General Counsel (OGC), Regulatory Policy and Oversight (RPO), at (202) 728-8071; or Afshin Atabaki, Attorney, OGC, RPO, at (202) 728-8902.

Background and Discussion

Since 1997, NASD has been required to pay the SEC a fee based on the aggregate dollar amount of sales of securities transacted by or through any member otherwise than on a national securities exchange.² Prior to the adoption of the new procedures described below, the SEC had allowed NASD and the national securities exchanges to adopt their own procedures for the calculation of the Section 31 fees and assessments owed to the SEC. Based on the requirements of the Accountability of Tax Dollars Act of 2002, however, the SEC has determined to centralize the calculation and collection of the fees and assessments owed to it by NASD and the national securities exchanges in accordance with Section 31. Consequently, in January 2004, the SEC proposed new Rule 31 and temporary Rule 31T under the Exchange Act³ as well as Form R31 to establish procedures by which it could calculate and collect the Section 31 fees and assessments.⁴ The new procedures were adopted on June 28, 2004 and became effective on August 6, 2004.

Based on the new procedures, NASD is required to provide to the SEC the aggregate dollar amount of all "covered sales"⁵ and the total number of "covered round turn transactions"⁶ occurring by or through a member firm otherwise than on a national securities exchange.⁷ The SEC will then calculate the amount of Section 31 fees due from NASD for "covered sales" by multiplying the aggregate dollar amount of NASD's covered sales by the fee rate set forth in Section 31(c) of the Exchange Act, which the SEC adjusts from time to time pursuant to Section 31(j) of the Exchange Act.⁸ In addition, the SEC will calculate the amount of assessment due from NASD for "covered round turn transactions" by multiplying the total number of covered round turn transactions by the assessment charge set forth in Section 31(d) of the Exchange Act.⁹ Section 31 fees and assessments are due to the SEC twice per year—on March 15 and September 30. Before the due dates, the SEC will send a bill to NASD showing the total amount due from NASD for the billing period.

As adopted, the new procedures require NASD to tabulate aggregate sales volume based on information reported to its trade reporting systems and to submit this data to the SEC on SEC Form R31 on a monthly basis. Pursuant to SEC Rule 31(b)(1), NASD is required to submit to the SEC a completed Form R31 within ten business days after the end of each month. NASD currently has two trade reporting systems for purposes of Rule 31 under the Exchange Act—the Automated Confirmation Transaction Service (ACT) and the Trade Reporting and Confirmation Service (TRACS). In addition, NASD is required to compile and submit, through Form R31, similar trading activity information on trades that are not captured by ACT or TRACS.

Specifically, NASD is required to submit the aggregate dollar amount of covered sales that: (1) occurred by or through a member otherwise than on a national securities exchange; (2) had a "charge date"¹⁰ in the month of the report; and (3) NASD captured in its trade reporting systems. NASD also is required to submit trade data to the SEC on covered sales that are not captured on either ACT or TRACS, which would include covered sales in odd lots, covered sales resulting from the exercise of options settled by physical delivery and not listed or traded on a national securities exchange, and covered sales where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security (hereinafter referred to as away from the market sales).¹¹

Currently, NASD obtains trade data on covered sales in odd lots and covered sales resulting from the exercise of options settled by physical delivery and not listed or traded on a national securities exchange through a self-reporting mechanism, but trade data on away from the market sales is not captured in NASD's trade reporting systems or through a self-reporting mechanism. Moreover, NASD previously had not included away from the market sales in its calculation of the transaction fees owed to the SEC under Section 31 based upon SEC guidance that such transactions were not subject to Section 31 fees.¹² In the Adopting Release, however, the SEC stated that it now believes that such transactions are subject to Section 31 fees where consideration is given for the securities. Therefore, as explained in greater detail below, NASD will begin seeking trade information on these transactions from members through self reporting so that it can satisfy its reporting obligation under the new SEC procedures.

SEC Rule 31T authorizes the SEC to collect trade data on all covered sales retroactively for each of the months September 2003 to June 2004, inclusive. Accordingly, the Rule as written requires NASD to submit trade data on away from the market sales for each of the months in the September 2003 to June 2004 period. Such an approach would require members to retroactively self report such transactions to NASD. NASD believes that requesting historical information from member firms on away from the market sales for the period from September 2003 to June 2004 is unduly burdensome on members. Therefore, NASD has sought an exemption from the SEC with respect to NASD's retroactive reporting obligation. Consequently, in light of NASD's pending exemption request, members will not have to review transactions between September 2003 and June 2004 to identify away from the market sales for that period.¹³ However, NASD will begin reporting away from the market sales effective July 2004 and for each month thereafter. To allow members more time to review their July 2004 transactions to identify away from the market sales for that month, NASD also has sought an exemption from the SEC so that NASD can report away from the market sales for July 2004 in the Form R31 that is due on September 15, 2004. The exemptions sought by NASD are intended to give member firms more time to make the necessary changes to their systems to facilitate the self reporting of away from the market sales.

Obligations of Member Firms

To recover the costs of NASD's Section 31 obligation, NASD assesses a transaction fee on its member firms under Section 3 of Schedule A to the NASD By-Laws, the amount of which is set in accordance with Section 31 of the Exchange Act.¹⁴ As noted above, the new SEC procedures relating to Section 31 do not directly affect the obligation of member firms to pay the transaction fees assessed by NASD. NASD anticipates that the impact of SEC's new procedures on its members will be minimal. NASD will continue to bill members for covered securities transactions that are reported through ACT on a monthly basis, as it does today. In addition, NASD will bill members for transactions reported through TRACS. Nonetheless, members should be aware that the new procedures adopted by the SEC will affect NASD practices and, pursuant to such practices, member's reporting obligations. Specifically, member firms now are required to self report away from the market sales¹⁵—this is in addition to the currently self-reported covered sales in odd-lot transactions and covered sales resulting from the exercise of over-the-counter (OTC) options that settle by physical delivery.

In accordance with guidance provided in the SEC's Adopting Release, NASD has revised its existing self-reporting form so that members can report, in addition to odd-lot transactions and exercises of OTC options that settle by physical delivery, away from the market sales. In addition, NASD has created an Interim Self-Reporting Form to facilitate members' reporting of certain away from the market sales. NASD also will now require that trade data and applicable payments be received by NASD by the seventh calendar day of each month subsequent to the trade period covered on the report.¹⁶ Currently, members have until the tenth calendar day of each month to submit the trade data and payments to NASD. However, given NASD's obligation to process the trade data in a shorter timeframe (NASD is required to submit the trade data to the SEC within ten business days after the end of each month), NASD is requiring members to provide the trade data and payments by the seventh calendar day of each month, beginning in September 2004.

Members must use the Interim Self-Reporting Form that is attached to this *Notice* to self report covered sales of odd-lots and OTC exercised options as well as away from the market sales for the August 2004 trade-reporting period. In addition, members must use the Interim Self-Reporting Form to report away from the market sales for the July 2004 trade-reporting period.¹⁷ The Interim Self-Reporting Form and applicable payments must be received by NASD by September 7, 2004. The Interim Self-Reporting Form will be used once only in September 2004.

To self report covered sales, including away from the market sales, for the September 2004 trade-reporting period and for each month thereafter, members must use the Permanent Self-Reporting Form, which also is attached to this *Notice*. The Permanent Self-Reporting Form becomes effective on October 1, 2004. The first Permanent Self-Reporting Form and applicable payments must be received by NASD by October 7, 2004. NASD reminds firms to print and retain blank copies of the Permanent Self-Reporting Form for future use.

NASD also reminds firms of their continuing obligation to ensure the accuracy and timeliness of information reported to NASD, including real-time trade information reported to ACT and TRACS and self-reported trade information. Moreover, because NASD will rely on self-reported data from member firms to complete Part III of SEC Form R31, it is imperative that firms submit accurate trade data to NASD on a timely basis on covered sales of odd-lot transactions and exercises of OTC options that settle by physical delivery, as well as away from the market sales.

Rounding and Disclosure of Transaction Fees

Currently, members calculate the transaction fees on self-reported trades by: (1) multiplying the aggregate dollar amount of self-reported covered sales by the fee rate; (2) truncating the resulting amount at the fifth place after the decimal point; and (3) rounding up to the next cent, if there is any remainder. While firms need not pass transaction fees on to their customer, it is NASD's understanding that such fees are frequently passed by broker-dealers on to their customers on a trade-by-trade basis.¹⁸ In addition, NASD understands that reconciling the amounts billed by NASD and the amounts collected by member firms has been difficult from a member firm perspective, resulting in overages at some broker-dealer firms, in part due to the practice of routinely rounding up to the next cent. To more accurately reconcile the amount that NASD bills its members and the amount collected by members from their customers, members should no longer solely round up when there is a remainder after truncating the resulting amount. Rather, if there is any remainder, members should alternate between rounding up and rounding down to the next cent.

With respect to the disclosure of the transaction fees that members pass on to their customers, the SEC does not believe that it is appropriate for members to refer to the fee assessed by NASD as "Section 31 Fees" or "SEC Fees."¹⁹ Therefore, as noted by the SEC, members should refrain from labeling the fees as such to avoid any confusion by their customers.²⁰

Endnotes

- 1 See Final Rule Regarding Collection Practices Under Section 31, Securities Exchange Act Release No. 49928 (June 28, 2004), 69 FR 41059 (July 7, 2004) (Adopting Release).
- 2 See Section 31(c) of the Exchange Act.
- 3 Temporary Rule 31T enables the SEC to calculate Section 31 fees and assessments using the new procedures for the whole of its fiscal year 2004.
- 4 See Securities Exchange Act Release No. 49014 (January 20, 2004), 69 FR 4018 (January 27, 2004).
- 5 Section 31 applies only to sales of securities. SEC Rule 31(a)(6) defines a "covered sale" as "a sale of a security, other than an exempt sale or a sale of a security future, occurring on a national securities exchange or by or through any member of a national securities association otherwise than on a national securities exchange."
- 6 SEC Rule 31(a)(7) defines a "covered round turn transaction" as "a round turn transaction in a security future, other than a round turn transaction in a future on a narrow-based security index, occurring on a national securities exchange or by or through a member of a national securities association otherwise than on a national securities exchange."
- 7 Certain sales are exempt from the application of Section 31. The following are considered exempt sales: (1) any sale of a security offered pursuant to an effective registration statement under the Securities Act of 1933 (Securities Act) (except a sale of a put or call option issued by the Options Clearing Corporation) or offered in accordance with an exemption from registration afforded by Section 3(a) or 3(b) of the Securities Act, or a rule thereunder; (2) any sale of a security by an issuer not involving any public offering within the meaning of Section 4(2) of the Securities Act; (3) any sale of a security pursuant to and in consummation of a tender or exchange offer; (4) any sale of a security upon the exercise of a warrant or right (except a put or call), or upon the conversion of a convertible security; (5) any sale of a security that is executed outside the U.S. and is not reported, or required to be reported, to a transaction-reporting association as defined in SEC Rule 11Aa3-1 and any approved plan filed thereunder; (6) any sale of an option on a security index (including both a narrow-based security index and a non-narrow-based security index); (7) any sale of a bond, debenture, or other evidence of indebtedness; and (8) any recognized riskless principal sale. See SEC Rule 31(a)(11). The exemption for any "recognized riskless principal sale" is new. SEC Rule 31(a)(14) defines a "recognized riskless principal sale" as a sale of a security where: (1) a broker-dealer receives from a customer an order to buy (sell) a security; (2) the broker-dealer engages in two contemporaneous offsetting transactions as principal, one in which the broker-dealer buys (sells) the security from (to) a third party and the other in which the broker-dealer sells (buys) the security to (from) the customer; and (3) the SEC, pursuant to Section 19(b)(2) of the Exchange Act, has approved a rule change submitted by the self-regulatory organization on which the second of the two contemporaneous offsetting transactions occurs that permits the transaction to be reported as riskless.
- 8 The fee rate currently is set at \$23.40 per million. However, effective October 1, 2004, or 30 days after the date on which the SEC receives its fiscal year 2005 regular appropriation, whichever date comes later, the Section 31 fee rate will increase to \$32.90 per million from the current rate. See SEC Fee Rate Advisory #1 for Fiscal Year 2005 at www.sec.gov/news/press/2004-59.htm. In the past, NASD has notified members, through Member Alerts or other means, of any periodic adjustments to the fee rate. NASD will continue to notify members of any such adjustments in the future.

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- 9 The assessment charge currently is set at \$0.009 for each round turn transaction (treated as including one purchase and one sale of a contract of sale for future delivery). See Section 31(d) of the Exchange Act.
- 10 The charge date for trades reported in Parts II and III of Form R31 is the trade date, with one exception. The charge date for covered sales resulting from the exercise of over-the-counter options that settle by physical delivery is the exercise date. In addition, NASD has sought an exemption from the SEC to permit the charge date for "as-of" trades reported by NASD in Form R31 to be the trade report date.
- 11 See Securities Exchange Act Release No. 49928, 69 FR 41059, 41063.
- 12 See Final Rule Regarding Securities Transactions Exempt From Transaction Fees, Securities Exchange Act Release No. 38073 (December 23, 1996), 61 FR 68590, 68592 n.27 (December 30, 1996).
- 13 In the event the SEC does not grant the requested exemption to NASD, NASD will require its members to report such information to it and will promptly inform its members of such fact and of the manner in which to report the information. At this time, however, NASD is proceeding under the assumption that such exemption will be granted.
- 14 Pursuant to the Investor and Capital Markets Fee Relief Act, the SEC is required to make periodic adjustments to the Section 31 fee rates. As noted above, the current fee rate is set at \$23.40 per million.
- 15 As stated in the Adopting Release, a gift of a security without consideration is not a "sale" for purpose of Sections 31(c) of the Exchange Act, and is not subject to Section 31 fees. Therefore, member firms are not required to self report transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security if no consideration is given for the securities.
- 16 If the seventh calendar day falls on a weekend or a public holiday, the report must be received by NASD on the first business day following the weekend or holiday.
- 17 The Interim Self-Reporting Form includes two tables for purposes of reporting away from the market sales for the July and August 2004 trade-reporting periods. Members must use the first table in the form to report away from the market sales for transactions occurring in August 2004. Members must use the second table in the form to report only away from the market sales and only for the month of July 2004.
- 18 See Letter from Ernest A. Pittarelli, Chairman, Securities Industry Association Operations Committee, to Jonathan G. Katz, Secretary, SEC, dated March 5, 2004.
- 19 Securities Exchange Act Release No. 49928, 69 FR 41059, 41072.
- 20 NASD is filing a proposed rule change with the SEC to amend, among other things, the title of Section 3 of Schedule A to the NASD By-Laws from "SEC Transaction Fee" to "Regulatory Transaction Fee."

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NASD Interim Self-Reporting Form
for Odd-Lot, OTC Exercised Option, and Away from the Market Sales
that Are not Reported through ACT or TRACS

P.O. Box 7777-W4230
Philadelphia, PA 19175-4230

*** Effective September 1, 2004 ***

*** Expires September 30, 2004 ***

Important Note: This Interim Self-Reporting Form is to be used to report odd-lot, OTC exercised options, and away from the market sales for the August 2004 trade-reporting period. In addition, this Interim Self-Reporting Form is to be used to report away from the market sales for the July 2004 trade-reporting period.

Only NASD members that are clearing firms (including self-clearing firms) should be submitting this form to NASD. All clearing firms are expected to collect any applicable trading information from their respective correspondent firms to be included in the aggregate totals. The trade date must be used when determining aggregate odd-lot and away from the market sales transactions for the preceding calendar month. The exercise date must be used when reporting aggregate OTC exercised option sales for the preceding calendar month.

General Instructions

The purpose of this form is to facilitate the collection of transaction fees under Section 3 of Schedule A to the NASD By-Laws with respect to transactions in odd-lots, transactions effected pursuant to the exercise of OTC options, and certain transactions that occur away from the market.

If your firm does not process odd-lot transactions or if all odd-lot trades are submitted to the Automated Confirmation Transaction Service (ACT) or Trade Reporting and Comparison Service (TRACS) for trade reporting purposes, please submit the form with an "N/A" for the aggregate sales amount.

If your firm does not process any of the types of transactions identified on this form, please submit the blank form signed by an authorized representative, along with a letter of explanation detailing the reason your firm does not process any of the identified transactions. Future filings of this blank form for inactivity will not be necessary. If applicable transactions are processed in the future, your firm will be expected to file this form along with payment in a timely manner.

Odd-Lot Transactions

NASD members that are clearing firms, including self-clearing firms, must report aggregate dollar amount of covered odd-lot sales transacted by or through such member, including all such sales by the member's correspondent firm(s). Firms must report odd-lot sales under the same general rules and guidelines applicable to round lot transactions as detailed in *Special Notice to Members 96-81* dated December 3, 1996 and the SEC Billing Document from NASD in December 1996. Member firms should consider the following when accumulating odd-lot data for each reporting period:

- Odd-lot transactions are those sides for less than the normal trading unit, e.g., 100 shares. Do not include "mixed lots" as part of your odd-lot reporting.
- Include all transactions where you or your correspondent firms represent the sell side of the odd-lot transaction.
- Include all transactions where you or your correspondent firms represent the buy side of a transaction with or between public customers or non-NASD member firms.
- Include all odd-lot transactions in Nasdaq securities, excluding convertible debt listed on Nasdaq.
- Include all odd-lot transactions in all non-Nasdaq OTC Equity Securities as defined in NASD Rule 6610.
- Include all odd-lot transactions in all non-Nasdaq OTC Equity Securities that are ADRs or Canadian foreign securities but exclude all non-Nasdaq non-Canadian foreign securities. Consolidate all odd-lot transactions with that of your correspondents, if any.
- Do include, in this form, odd-lot transactions in exchange registered securities traded off the exchange ("third market trades").
- Do not include odd-lot transactions that are trade reported to either ACT or TRACS. This form must only be used for odd lots that are not trade reported to ACT or TRACS.

OTC Options Exercise

Use this section of the form to report all transactions in a covered security effected pursuant to the exercise of an OTC option by or through a member that is a clearing firm (including self-clearing firm) or its correspondent firm(s). Covered securities are those securities that are subject to prompt last-sale-reporting and exchange-registered securities. Member firms should determine the following when accumulating options exercise data for each calendar reporting period:

- This form is only used to report transactions in covered securities that arise pursuant to the exercise of an OTC option by or through an NASD member that settle by physical delivery.
- Include all transactions where you or your correspondent firms represent the sell side of the transaction.
- Include all transactions where you or your correspondent firms represent the buy side of a transaction with or between public customers or non-NASD member firms.
- Do not include any transactions in a covered security effected pursuant to the exercise of an exchange-registered option, e.g., a purchase or sale of a Nasdaq or OTC Equity Security upon the exercise of an exchange-registered option. The Options Clearing Corporation will be collecting the fee for these types of transactions.
- Do not include any exercise of an option not involving the purchase or sale of the underlying covered security, e.g., a cash settled exercise.
- Report the aggregate dollar amount of the transactions determined on the basis of the exercise price.

Sales Away from the Market That Are Not Required to Be Reported by NASD Rules

NASD members that are clearing firms (including self-clearing firms) must report aggregate dollar amount of covered sales where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security and where these sales were not required to be reported pursuant to NASD Rules. Firms should not report trade data that already has been reported to ACT or TRACS. In addition, members are not required to include transactions involving a gift of a security **without** consideration because such a transaction is not considered a "sale" for purposes of this form.

This self-reporting form includes two tables for purposes of reporting sales away from the market for the July and August trade-reporting periods. Members must use the first table in the form to report sales away from the market (in addition to odd lots and OTC exercised options) as part of their regular reporting obligation for transactions occurring in August 2004. Members must use the second table in the form to report only sales away from the market and only for the month of July 2004. Please use this interim form only for the July and August 2004 trade-reporting periods and use the Permanent Self-Reporting Form (effective October 1, 2004) to report covered sales for the September 2004 trade-reporting period and going forward.



NASD Interim Self-Reporting Form
Odd-Lot, OTC Exercised Options, and Away from the Market Sales

*** Effective September 1, 2004 ***

Transaction Fees under Section 3 of Schedule A to the NASD By-Laws for the Calendar Month of August 2004 for odd-lot, OTC exercised option, and away from the market sales.

Report of Sales by: Firm Name _____
B/D # _____
Clearing # _____

Transaction	Aggregate Sales/Exercise Price	Rate	Fee Due
Odd-Lot Transactions	\$	0.0000234	\$
Exercised Options	\$	0.0000234	\$
Sales Away From the Market	\$	0.0000234	\$

Total Amount Due \$ _____

Transaction Fees under Section 3 of Schedule A to the NASD By-Laws for the Calendar Month of July 2004 for away from the market sales.

Report of Sales by: Firm Name _____
B/D # _____
Clearing # _____

Transaction	Aggregate Sales/Exercise Price	Rate	Fee Due
Sales Away From the Market (Covering July 2004)	\$	0.0000234	\$

Total Amount Due \$ _____

*****IMPORTANT*** PAYMENT FOR TOTAL AMOUNT DUE MUST BE SUBMITTED WITH THIS REPORT.**

NASD must receive this Form and Payment by September 7, 2004. Please submit this form and payment to:

NASD, P.O. Box 7777-W4230, Philadelphia, PA 19175-4230

Signature of Authorized Representative _____ Title _____

Print Name _____ Date/Telephone Number _____

Address (Street, City, State, Zip) _____

E-mail Address _____

NASD Permanent Self-Reporting Form
for Odd-Lot, OTC Exercised Option, and Away from the Market Sales
that Are not Reported through ACT or TRACS

P.O. Box 7777-W4230
Philadelphia, PA 19175-4230

*** Effective October 1, 2004 ***

Important Note: Only NASD members that are clearing firms (including self-clearing firms) should be submitting this form on a monthly basis to NASD. All clearing firms are expected to collect any applicable trading information from their respective correspondent firms to be included in the aggregate totals. The trade date must be used when determining aggregate odd-lot and away from the market sales transactions for the preceding calendar month. The exercise date must be used when reporting aggregate OTC exercised option sales for the preceding calendar month.

General Instructions

The purpose of this form is to facilitate the collection of transaction fees under Section 3 of Schedule A to the NASD By-Laws with respect to transactions in odd-lots, transactions effected pursuant to the exercise of OTC options, and certain transactions that occur away from the market.

Please retain a copy of this blank form for your firm's monthly reporting. Additional copies of this form may be obtained by contacting the NASD Finance Department at (240) 386-5354.

If your firm does not process odd-lot transactions or if all odd-lot trades are submitted to the Automated Confirmation Transaction Service (ACT) or Trade Reporting and Comparison Service (TRACS) for trade reporting purposes, please submit the form with an "N/A" for the aggregate sales amount.

If your firm does not process any of the types of transactions identified on this form, please submit the blank form signed by an authorized representative, along with a letter of explanation detailing the reason your firm does not process any of the identified transactions. Future filings of this blank form for inactivity will not be necessary. If applicable transactions are processed in the future, your firm will be expected to file this form along with payment in a timely manner.

Odd-Lot Transactions

NASD members that are clearing firms, including self-clearing firms, must report aggregate dollar amount of covered odd-lot sales transacted by or through such member, including all such sales by the member's correspondent firm(s). Firms must report odd-lot sales under the same general rules and guidelines applicable to round lot transactions as detailed in *Special Notice to Members 96-81* dated December 3, 1996 and the SEC Billing Document from NASD in December 1996. Member firms should consider the following when accumulating odd-lot data for each reporting period:

- Odd-lot transactions are those sides for less than the normal trading unit, e.g., 100 shares. Do not include "mixed lots" as part of your odd-lot reporting.
- Include all transactions where you or your correspondent firms represent the sell side of the odd-lot transaction.
- Include all transactions where you or your correspondent firms represent the buy side of a transaction with or between public customers or non-NASD member firms.
- Include all odd-lot transactions in Nasdaq securities, excluding convertible debt listed on Nasdaq.
- Include all odd-lot transactions in all non-Nasdaq OTC Equity Securities as defined in NASD Rule 6610.
- Include all odd-lot transactions in all non-Nasdaq OTC Equity Securities that are ADRs or Canadian foreign securities but exclude all non-Nasdaq non-Canadian foreign securities. Consolidate all odd-lot transactions with that of your correspondents, if any.
- Do include, in this form, odd-lot transactions in exchange registered securities traded off the exchange ("third market trades").
- Do not include odd-lot transactions that are trade reported to either ACT or TRACS. This form must only be used for odd lots that are not trade reported to ACT or TRACS.

OTC Options Exercise

Use this section of the form to report all transactions in a covered security effected pursuant to the exercise of an OTC option by or through a member that is a clearing firm (including self-clearing firm) or its correspondent firm(s). Covered securities are those securities that are subject to prompt last-sale-reporting and exchange-registered securities. Member firms should determine the following when accumulating options exercise data for each calendar reporting period:

- This form is only used to report transactions in covered securities that arise pursuant to the exercise of an OTC option by or through an NASD member that settle by physical delivery.
- Include all transactions where you or your correspondent firms represent the sell side of the transaction.
- Include all transactions where you or your correspondent firms represent the buy side of a transaction with or between public customers or non-NASD member firms.
- Do not include any transactions in a covered security effected pursuant to the exercise of an exchange-registered option, e.g., a purchase or sale of a Nasdaq or OTC Equity Security upon the exercise of an exchange-registered option. The Options Clearing Corporation will be collecting the fee for these types of transactions.
- Do not include any exercise of an option not involving the purchase or sale of the underlying covered security, e.g., a cash settled exercise.
- Report the aggregate dollar amount of the transactions determined on the basis of the exercise price.

Sales Away from the Market That Are Not Required to be Reported By NASD Rules

NASD members that are clearing firms (including self-clearing firms) must report aggregate dollar amount of covered sales where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security and where these sales were not required to be reported pursuant to NASD Rules. Firms should not report trade data that already has been reported to ACT or TRACS. In addition, members are not required to include transactions involving a gift of a security **without** consideration because such a transaction is not considered a "sale" for purposes of this form.



NASD Permanent Self-Reporting Form
Odd-Lot, OTC Exercised Options, and Away from the Market Sales

*** Effective 10/01/04 ***

Transaction Fees under Section 3 of Schedule A to the NASD By-Laws for the Calendar Month of _____, 200() for odd-lot, OTC exercised option, and away from the market sales.

Report of Sales by: Firm Name _____
B/D # _____
Clearing # _____

Transaction	Aggregate Sales/Exercise Price	Rate	Fee Due
Odd-Lot Transactions	\$	0.0000234	\$
Exercised Options	\$	0.0000234	\$
Sales Away From the Market	\$	0.0000234	\$

Total Amount Due \$ _____

*****IMPORTANT*** PAYMENT FOR TOTAL AMOUNT DUE MUST BE SUBMITTED WITH THIS REPORT.**

NASD must receive this Form and Payment by the seventh calendar day¹ subsequent to the subject trade-reporting period. Please submit this form and payment to:

NASD, P.O. Box 7777-W4230, Philadelphia, PA 19175-4230

Signature of Authorized Representative _____ Title _____

Print Name _____ Date/Telephone Number _____

Address (Street, City, State, Zip) _____

E-mail Address _____

¹ If the seventh calendar day falls on a weekend or a public holiday, the report must be received by NASD on the first business day following the weekend or public holiday.