

“prospectuses” under Section 10(b) of the Securities Act.<sup>2</sup>

Rule 482 contains certain requirements regarding the disclosure that funds are required to provide in qualifying advertisements. These requirements are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. For example, a fund is required to include disclosure advising investors to consider the fund’s investment objectives, risks, charges and expenses, and other information described in the fund’s prospectus, and highlighting the availability of the fund’s prospectus and, if applicable, its summary prospectus. In addition, rule 482 advertisements that include performance data of open-end funds or insurance company separate accounts offering variable annuity contracts are required to include certain standardized performance information, information about any sales loads or other nonrecurring fees, and a legend warning that past performance does not guarantee future results. Such funds including performance information in rule 482 advertisements are also required to make available to investors month-end performance figures via Web site disclosure or by a toll-free telephone number, and to disclose the availability of the month-end performance data in the advertisement. The rule also sets forth requirements regarding the prominence of certain disclosures, requirements regarding advertisements that make tax representations, requirements regarding advertisements used prior to the effectiveness of the fund’s registration statement, requirements regarding the timeliness of performance data, and certain required disclosures by money market funds.

Rule 482 advertisements must be filed with the Commission or, in the alternative, with the Financial Industry Regulatory Authority (“FINRA”).<sup>3</sup> This information collection differs from many other federal information collections that are primarily for the use and benefit of the collecting agency.

Rule 482 contains requirements that are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. The Commission is concerned that in

the absence of such provisions fund investors may be misled by deceptive rule 482 advertisements and may rely on less-than-adequate information when determining in which funds they should invest money. As a result, the Commission believes it is beneficial for funds to provide investors with balanced information in fund advertisements in order to allow investors to make better-informed decisions.

The Commission estimates that 59,245 responses to rule 482 are filed annually by 3,430 investment companies offering approximately 16,428 portfolios, or approximately 3.6 responses per portfolio annually. The burden associated with rule 482 is presently estimated to be 5.16 hours per response. The annual hourly burden is therefore approximately 305,704 hours.<sup>4</sup>

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. The provision of information under rule 482 is necessary to obtain the benefits of the safe harbor offered by the rule. The information provided under rule 482 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site: [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE., Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: February 12, 2014.

**Kevin M. O’Neill,**

*Deputy Secretary.*

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<sup>4</sup> 59,245 responses × 5.16 hours per response = 305,704 hours.

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71550/February 12, 2014]

### Order Making Fiscal Year 2014 Annual Adjustments to Transaction Fee Rates

#### I. Background

Section 31 of the Securities Exchange Act of 1934 (“Exchange Act”) requires each national securities exchange and national securities association to pay transaction fees to the Commission.<sup>1</sup> Specifically, Section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities (“covered sales”) transacted on the exchange.<sup>2</sup> Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of covered sales transacted by or through any member of the association other than on an exchange.<sup>3</sup>

Section 31 of the Exchange Act requires the Commission to annually adjust the fee rates applicable under Sections 31(b) and (c) to a uniform adjusted rate.<sup>4</sup> Specifically, the Commission must adjust the fee rates to a uniform adjusted rate that is reasonably likely to produce aggregate fee collections (including assessments on security futures transactions) equal to the regular appropriation to the Commission for the applicable fiscal year.<sup>5</sup>

The Commission is required to publish notice of the new fee rates under Section 31 not later than 30 days after the date on which an Act making a regular appropriation for the applicable fiscal year is enacted.<sup>6</sup> On January 17, 2014, the President signed the Consolidated Appropriations Act of 2014, providing \$1,350,000,000 in funds to the SEC for fiscal year 2014.

#### II. Fiscal Year 2014 Annual Adjustment to the Fee Rate

The new fee rate is determined by (1) subtracting the sum of fees estimated to

<sup>1</sup> 15 U.S.C. 78ee.

<sup>2</sup> 15 U.S.C. 78ee(b).

<sup>3</sup> 15 U.S.C. 78ee(c).

<sup>4</sup> In some circumstances, the SEC also must make a mid-year adjustment to the fee rates applicable under Sections 31(b) and (c).

<sup>5</sup> 15 U.S.C. 78ee(j)(1) (the Commission must adjust the rates under Sections 31(b) and (c) to a “uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under [Section 31] (including assessments collected under [Section 31(d)]) that are equal to the regular appropriation to the Commission by Congress for such fiscal year.”).

<sup>6</sup> 15 U.S.C. § 78ee(g).

<sup>2</sup> 15 U.S.C. 77j(b).

<sup>3</sup> See rule 24b–3 under the Investment Company Act (17 CFR 270.24b–3), which provides that any sales material, including rule 482 advertisements, shall be deemed filed with the Commission for purposes of Section 24(b) of the Investment Company Act upon filing with FINRA.

be collected prior to the effective date of the new fee rate<sup>7</sup> and estimated assessments on security futures transactions to be collected under Section 31(d) of the Exchange Act for all of fiscal year 2014<sup>8</sup> from an amount equal to the regular appropriation to the Commission for fiscal year 2014, and (2) dividing the difference by the estimated aggregate dollar amount of sales for the remainder of the fiscal year following the effective date of the new fee rate.

The regular appropriation to the Commission for fiscal year 2014 is \$1,350,000,000. The Commission estimates that it will collect \$513,805,098 in fees for the period prior to the effective date of the new fee rate and \$58,854 in assessments on round turn transactions in security futures products during all of fiscal year 2014.<sup>9</sup> Using a methodology for estimating the aggregate dollar amount of sales for the remainder of fiscal year 2014 (developed after consultation with the CBO and OMB), the Commission estimates that the aggregate dollar amount of covered sales for the remainder of fiscal year 2014 to be \$37,881,618,779,245.

As described above, the uniform adjusted rate is computed by dividing the residual fees to be collected of \$836,136,049 by the estimate of the aggregate dollar amount of covered sales for the remainder of fiscal year 2014 of \$37,881,618,779,245. This results in a uniform adjusted rate for fiscal year 2014 of \$22.10 per million.<sup>10</sup>

### III. Effective Date of the Uniform Adjusted Rate

Under Section 31(j)(4)(A) of the Exchange Act, the fiscal year 2014

<sup>7</sup> The sum of fees to be collected prior to the effective date of the new fee rate is determined by applying the current fee rate to the dollar amount of covered sales prior to the effective date of the new fee rate. The exchanges and FINRA have provided data on the dollar amount of covered sales through December 31, 2013. To calculate the dollar amount of covered sales from that date to the effective date of the new fee rate, the Division is using the same methodology it developed in consultation with the Congressional Budget Office ("CBO") and the Office of Management and Budget ("OMB") to estimate the dollar amount of covered sales in prior fiscal years. An explanation of the methodology appears in Appendix A.

<sup>8</sup> The Division is using the same methodology it has used previously to estimate assessments on security futures transactions to be collected in fiscal year 2014. An explanation of the methodology appears in Appendix A.

<sup>9</sup> The estimate of fees to be collected prior to the effective date of the new fee rate is determined by applying the current fee rate to the dollar amount of covered sales prior to the effective date of the new fee rate.

<sup>10</sup> Appendix A shows the purely arithmetic process of calculating the fiscal year 2014 annual adjustment. The appendix also includes the data used by the Commission in making this adjustment.

annual adjustments to the fee rates applicable under Sections 31(b) and (c) of the Exchange Act shall take effect on the later of October 1, 2013, or 60 days after the date on which a regular appropriation to the Commission for fiscal year 2014 is enacted.<sup>11</sup> The regular appropriation to the Commission for fiscal year 2014 was enacted on January 17, 2014, and accordingly, the new fee rates applicable under Sections 31(b) and (c) of the Exchange Act will take effect on March 18, 2014.

### IV. Conclusion

Accordingly, pursuant to Section 31 of the Exchange Act,

*It is hereby ordered* that the fee rates applicable under Sections 31(b) and (c) of the Exchange Act shall be \$22.10 per \$1,000,000 effective on March 18, 2014.

By the Commission.

**Kevin M. O'Neill,**  
Deputy Secretary.

### Appendix A

This appendix provides the formula for determining the annual adjustment to the fee rates applicable under Sections 31(b) and (c) of the Exchange Act for fiscal year 2014. Section 31 of the Exchange Act requires the fee rates to be adjusted so that it is reasonably likely that the Commission will collect aggregate fees equal to its regular appropriation for fiscal year 2014.

To make the adjustment, the Commission must project the aggregate dollar amount of covered sales of securities on the securities exchanges and certain over-the-counter markets over the course of the year. The fee rate equals the ratio of the Commission's regular appropriation for fiscal year 2014 (less the sum of fees to be collected during fiscal year 2014 prior to the effective date of the new fee rate and aggregate assessments on security futures transactions during all of fiscal year 2014) to the estimated aggregate dollar amount of covered sales for the remainder of the fiscal year following the effective date of the new fee rate.

For 2014, the Commission has estimated the aggregate dollar amount of covered sales by projecting forward the trend established in the previous decade. More specifically, the dollar amount of covered sales was forecasted for months subsequent to December 2013, the last month for which the Commission has data on the dollar volume of covered sales.<sup>12</sup>

<sup>11</sup> 15 U.S.C. 78ee(j)(4)(A).

<sup>12</sup> To determine the availability of data, the Commission compares the date of the appropriation with the date the transaction data are due from the exchanges (10 business days after the end of the month). If the business day following the date of the appropriation is equal to or subsequent to the date the data are due from the exchanges, the Commission uses these data. The appropriation was signed on January 17, 2014. The first business day after this date was January 21, 2014. Data for December were due from the exchanges on January 15. So the Commission used December 2013 and

The following sections describe this process in detail.

#### A. Baseline Estimate of the Aggregate Dollar Amount of Covered Sales for Fiscal Year 2014

First, calculate the average daily dollar amount of covered sales (ADS) for each month in the sample (December 2003–December 2013). The monthly total dollar amount of covered sales (exchange plus certain over-the-counter markets) is presented in column C of Table A.

Next, calculate the change in the natural logarithm of ADS from month to month. The average monthly percentage growth of ADS over the entire sample is 0.0082 and the standard deviation is 0.122. Assuming the monthly percentage change in ADS follows a random walk, calculating the expected monthly percentage growth rate for the full sample is straightforward. The expected monthly percentage growth rate of ADS is 1.57%.

Now, use the expected monthly percentage growth rate to forecast total dollar volume. For example, one can use the ADS for December 2013 (\$250,727,781,285) to forecast ADS for January 2014 (\$254,668,736,673 = \$250,727,781,285 × 1.0157).<sup>13</sup> Multiply by the number of trading days in January 2014 (21) to obtain a forecast of the total dollar volume for the month (\$5,348,043,470,127). Repeat the method to generate forecasts for subsequent months.

The forecasts for total dollar volume of covered sales are in column G of Table A. The following is a more formal (mathematical) description of the procedure:

1. Divide each month's total dollar volume (column C) by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column D).

2. For each month  $t$ , calculate the change in ADS from the previous month as  $\Delta_t = \log(\text{ADS}_t / \text{ADS}_{t-1})$ , where  $\log(x)$  denotes the natural logarithm of  $x$ .

3. Calculate the mean and standard deviation of the series  $\{\Delta_1, \Delta_2, \dots, \Delta_{120}\}$ . These are given by  $\mu = 0.0082$  and  $\sigma = 0.122$ , respectively.

4. Assume that the natural logarithm of ADS follows a random walk, so that  $\Delta_t$  and  $\Delta_s$  are statistically independent for any two months  $s$  and  $t$ .

5. Under the assumption that  $\Delta_t$  is normally distributed, the expected value of  $\text{ADS}_t / \text{ADS}_{t-1}$  is given by  $\exp(\mu + \sigma^2/2)$ , or on average  $\text{ADS}_t = 1.0157 \times \text{ADS}_{t-1}$ .

6. For January 2014, this gives a forecast ADS of  $1.0157 \times \$250,727,781,285 = \$254,668,736,673$ . Multiply this figure by the 21 trading days in January 2014 to obtain a total dollar volume forecast of \$5,348,043,470,127.

7. For February 2014, multiply the January 2014 ADS forecast by 1.0157 to obtain a forecast ADS of \$258,671,636,250. Multiply this figure by the 19 trading days in February 2014 to obtain a total dollar volume forecast of \$4,914,761,088,752.

earlier data to forecast volume for January 2014 and later months.

<sup>13</sup> The value 1.0157 has been rounded. All computations are done with the unrounded value.

8. Repeat this procedure for subsequent months.

*B. Using the Forecasts From A To Calculate the New Fee Rate*

1. Use Table A to estimate fees collected for the period 10/1/13 through 3/17/14. The projected aggregate dollar amount of covered sales for this period is \$29,529,028,597,158. Actual and projected fee collections at the current fee rate of 0.0000174 are \$513,805,098.

2. Estimate the amount of assessments on security futures products collected from 10/1/13 through 9/30/14 to be \$58,854 by projecting a 1.57% monthly increase from a base of \$4,940 in December 2013.

3. Subtract the amounts \$513,805,098 and \$58,854 from the target offsetting collection amount set by Congress of \$1,350,000,000 leaving \$836,136,049 to be collected on dollar volume for the period 3/18/14 through 9/30/14.

4. Use Table A to estimate dollar volume for the period 3/18/14 through 9/30/14. The estimate is \$37,881,618,779,245. Finally, compute the fee rate required to produce the additional \$836,136,049 in revenue. This rate is \$836,136,049 divided by \$37,881,618,779,245 or 0.00002207234.

5. Round the result to the seventh decimal point, yielding a rate of .0000221 (or \$22.10 per million).

TABLE A—BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES

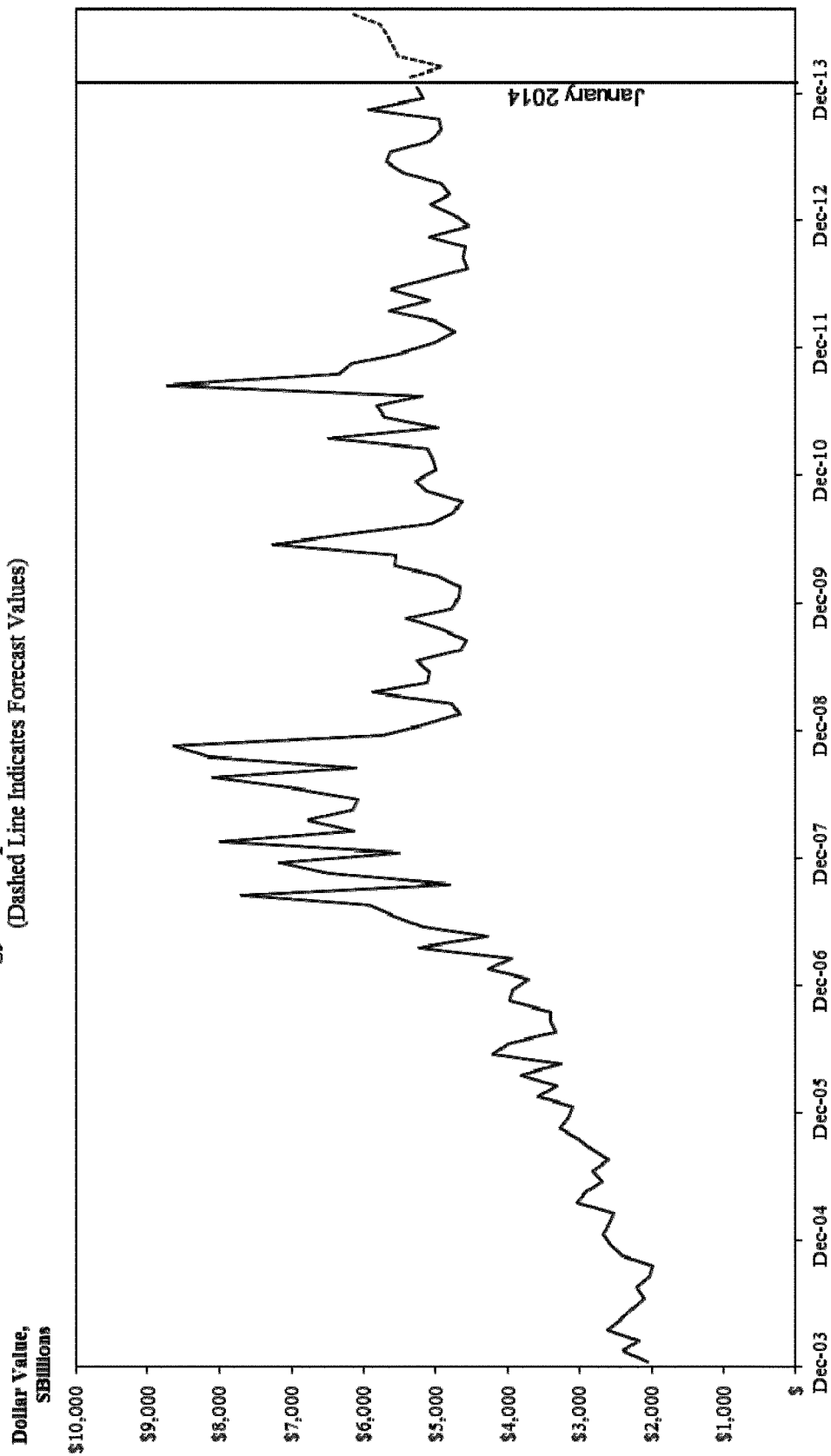
Fee rate calculation						
a. Baseline estimate of the aggregate dollar amount of sales, 10/01/2013 to 02/28/2014 (\$Millions) .....						26,638,917
b. Baseline estimate of the aggregate dollar amount of sales, 03/01/2014 to 03/17/2014 (\$Millions) .....						2,890,112
c. Baseline estimate of the aggregate dollar amount of sales, 03/18/2014 to 03/31/2014 (\$Millions) .....						2,627,375
d. Baseline estimate of the aggregate dollar amount of sales, 04/01/2014 to 09/30/2014 (\$Millions) .....						35,254,244
e. Estimated collections in assessments on security futures products in fiscal year 2014 (\$Millions) .....						0.059
f. Implied fee rate $((\$1,350,000,000 - \$17.40*(a+b) - e) / (c+d) .....$						\$22.10
Month	Number of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	Change in natural logarithm of ADS	Forecast ADS	Forecast total dollar amount of sales
Data						
(A)	(B)	(C)	(D)	(E)	(F)	(G)
Dec-03 .....	22	2,066,530,151,383	93,933,188,699	.....	.....	.....
Jan-04 .....	20	2,390,942,905,678	119,547,145,284	0.241	.....	.....
Feb-04 .....	19	2,177,765,594,701	114,619,241,826	-0.042	.....	.....
Mar-04 .....	23	2,613,808,754,550	113,643,858,893	-0.009	.....	.....
Apr-04 .....	21	2,418,663,760,191	115,174,464,771	0.013	.....	.....
May-04 .....	20	2,259,243,404,459	112,962,170,223	-0.019	.....	.....
Jun-04 .....	21	2,112,826,072,876	100,610,765,375	-0.116	.....	.....
Jul-04 .....	21	2,209,808,376,565	105,228,970,313	0.045	.....	.....
Aug-04 .....	22	2,033,343,354,640	92,424,697,938	-0.130	.....	.....
Sep-04 .....	21	1,993,803,487,749	94,943,023,226	0.027	.....	.....
Oct-04 .....	21	2,414,599,088,108	114,980,908,958	0.191	.....	.....
Nov-04 .....	21	2,577,513,374,160	122,738,732,103	0.065	.....	.....
Dec-04 .....	22	2,673,532,981,863	121,524,226,448	-0.010	.....	.....
Jan-05 .....	20	2,581,847,200,448	129,092,360,022	0.060	.....	.....
Feb-05 .....	19	2,532,202,408,589	133,273,810,978	0.032	.....	.....
Mar-05 .....	22	3,030,474,897,226	137,748,858,965	0.033	.....	.....
Apr-05 .....	21	2,906,386,944,434	138,399,378,306	0.005	.....	.....
May-05 .....	21	2,697,414,503,460	128,448,309,689	-0.075	.....	.....
Jun-05 .....	22	2,825,962,273,624	128,452,830,619	0.000	.....	.....
Jul-05 .....	20	2,604,021,263,875	130,201,063,194	0.014	.....	.....
Aug-05 .....	23	2,846,115,585,965	123,744,155,912	-0.051	.....	.....
Sep-05 .....	21	3,009,640,645,370	143,316,221,208	0.147	.....	.....
Oct-05 .....	21	3,279,847,331,057	156,183,206,241	0.086	.....	.....
Nov-05 .....	21	3,163,453,821,548	150,640,658,169	-0.036	.....	.....
Dec-05 .....	21	3,090,212,715,561	147,152,986,455	-0.023	.....	.....
Jan-06 .....	20	3,573,372,724,766	178,668,636,238	0.194	.....	.....
Feb-06 .....	19	3,314,259,849,456	174,434,728,919	-0.024	.....	.....
Mar-06 .....	23	3,807,974,821,564	165,564,122,677	-0.052	.....	.....
Apr-06 .....	19	3,257,478,138,851	171,446,217,834	0.035	.....	.....
May-06 .....	22	4,206,447,844,451	191,202,174,748	0.109	.....	.....
Jun-06 .....	22	3,995,113,357,316	181,596,061,696	-0.052	.....	.....
Jul-06 .....	20	3,339,658,009,357	166,982,900,468	-0.084	.....	.....
Aug-06 .....	23	3,410,187,280,845	148,269,012,211	-0.119	.....	.....
Sep-06 .....	20	3,407,409,863,673	170,370,493,184	0.139	.....	.....
Oct-06 .....	22	3,980,070,216,912	180,912,282,587	0.060	.....	.....
Nov-06 .....	21	3,933,474,986,969	187,308,332,713	0.035	.....	.....
Dec-06 .....	20	3,715,146,848,695	185,757,342,435	-0.008	.....	.....
Jan-07 .....	20	4,263,986,570,973	213,199,328,549	0.138	.....	.....
Feb-07 .....	19	3,946,799,860,532	207,726,308,449	-0.026	.....	.....
Mar-07 .....	22	5,245,051,744,090	238,411,442,913	0.138	.....	.....
Apr-07 .....	20	4,274,665,072,437	213,733,253,622	-0.109	.....	.....
May-07 .....	22	5,172,568,357,522	235,116,743,524	0.095	.....	.....
Jun-07 .....	21	5,586,337,010,802	266,016,048,133	0.123	.....	.....
Jul-07 .....	21	5,938,330,480,139	282,777,641,911	0.061	.....	.....

Month	Number of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	Change in natural logarithm of ADS	Forecast ADS	Forecast total dollar amount of sales
(A)	(B)	(C)	(D)	(E)	(F)	(G)
Aug-07 .....	23	7,713,644,229,032	335,375,836,045	0.171	.....	.....
Sep-07 .....	19	4,805,676,596,099	252,930,347,163	-0.282	.....	.....
Oct-07 .....	23	6,499,651,716,225	282,593,552,879	0.111	.....	.....
Nov-07 .....	21	7,176,290,763,989	341,728,131,619	0.190	.....	.....
Dec-07 .....	20	5,512,903,594,564	275,645,179,728	-0.215	.....	.....
Jan-08 .....	21	7,997,242,071,529	380,821,051,025	0.323	.....	.....
Feb-08 .....	20	6,139,080,448,887	306,954,022,444	-0.216	.....	.....
Mar-08 .....	20	6,767,852,332,381	338,392,616,619	0.098	.....	.....
Apr-08 .....	22	6,150,017,772,735	279,546,262,397	-0.191	.....	.....
May-08 .....	21	6,080,169,766,807	289,531,893,657	0.035	.....	.....
Jun-08 .....	21	6,962,199,302,412	331,533,300,115	0.135	.....	.....
Jul-08 .....	22	8,104,256,787,805	368,375,308,537	0.105	.....	.....
Aug-08 .....	21	6,106,057,711,009	290,764,652,905	-0.237	.....	.....
Sep-08 .....	21	8,156,991,919,103	388,428,186,624	0.290	.....	.....
Oct-08 .....	23	8,644,538,213,244	375,849,487,532	-0.033	.....	.....
Nov-08 .....	19	5,727,998,341,833	301,473,596,939	-0.221	.....	.....
Dec-08 .....	22	5,176,041,317,640	235,274,605,347	-0.248	.....	.....
Jan-09 .....	20	4,670,249,433,806	233,512,471,690	-0.008	.....	.....
Feb-09 .....	19	4,771,470,184,048	251,130,009,687	0.073	.....	.....
Mar-09 .....	22	5,885,594,284,780	267,527,012,945	0.063	.....	.....
Apr-09 .....	21	5,123,665,205,517	243,984,057,406	-0.092	.....	.....
May-09 .....	20	5,086,717,129,965	254,335,856,498	0.042	.....	.....
Jun-09 .....	22	5,271,742,782,609	239,624,671,937	-0.060	.....	.....
Jul-09 .....	22	4,659,599,245,583	211,799,965,708	-0.123	.....	.....
Aug-09 .....	21	4,582,102,295,783	218,195,347,418	0.030	.....	.....
Sep-09 .....	21	4,929,155,364,888	234,721,684,042	0.073	.....	.....
Oct-09 .....	22	5,410,025,301,030	245,910,240,956	0.047	.....	.....
Nov-09 .....	20	4,770,928,103,032	238,546,405,152	-0.030	.....	.....
Dec-09 .....	22	4,688,555,303,171	213,116,150,144	-0.113	.....	.....
Jan-10 .....	19	4,661,793,708,648	245,357,563,613	0.141	.....	.....
Feb-10 .....	19	4,969,848,578,023	261,570,977,791	0.064	.....	.....
Mar-10 .....	23	5,563,529,823,621	241,892,601,027	-0.078	.....	.....
Apr-10 .....	21	5,546,445,874,917	264,116,470,234	0.088	.....	.....
May-10 .....	20	7,260,430,376,294	363,021,518,815	0.318	.....	.....
Jun-10 .....	22	6,124,776,349,285	278,398,924,967	-0.265	.....	.....
Jul-10 .....	21	5,058,242,097,334	240,868,671,302	-0.145	.....	.....
Aug-10 .....	22	4,765,828,263,463	216,628,557,430	-0.106	.....	.....
Sep-10 .....	21	4,640,722,344,586	220,986,778,314	0.020	.....	.....
Oct-10 .....	21	5,138,411,712,272	244,686,272,013	0.102	.....	.....
Nov-10 .....	21	5,279,700,881,901	251,414,327,710	0.027	.....	.....
Dec-10 .....	22	4,998,574,681,208	227,207,940,055	-0.101	.....	.....
Jan-11 .....	20	5,043,391,121,345	252,169,556,067	0.104	.....	.....
Feb-11 .....	19	5,114,631,590,581	269,191,136,346	0.065	.....	.....
Mar-11 .....	23	6,499,355,385,307	282,580,668,926	0.049	.....	.....
Apr-11 .....	20	4,975,954,868,765	248,797,743,438	-0.127	.....	.....
May-11 .....	21	5,717,905,621,053	272,281,220,050	0.090	.....	.....
Jun-11 .....	22	5,820,079,494,414	264,549,067,928	-0.029	.....	.....
Jul-11 .....	20	5,189,681,899,635	259,484,094,982	-0.019	.....	.....
Aug-11 .....	23	8,720,566,877,109	379,155,081,613	0.379	.....	.....
Sep-11 .....	21	6,343,578,147,811	302,075,149,896	-0.227	.....	.....
Oct-11 .....	21	6,163,272,963,688	293,489,188,747	-0.029	.....	.....
Nov-11 .....	21	5,493,906,473,584	261,614,593,980	-0.115	.....	.....
Dec-11 .....	21	5,017,867,255,600	238,946,059,790	-0.091	.....	.....
Jan-12 .....	20	4,726,522,206,487	236,326,110,324	-0.011	.....	.....
Feb-12 .....	20	5,011,862,514,132	250,593,125,707	0.059	.....	.....
Mar-12 .....	22	5,638,847,967,025	256,311,271,228	0.023	.....	.....
Apr-12 .....	20	5,084,239,396,560	254,211,969,828	-0.008	.....	.....
May-12 .....	22	5,611,638,053,374	255,074,456,972	0.003	.....	.....
Jun-12 .....	21	5,121,896,896,362	243,899,852,208	-0.045	.....	.....
Jul-12 .....	21	4,567,519,314,374	217,500,919,732	-0.115	.....	.....
Aug-12 .....	23	4,621,597,884,730	200,939,038,467	-0.079	.....	.....
Sep-12 .....	19	4,598,499,962,682	242,026,313,825	0.186	.....	.....
Oct-12 .....	21	5,095,175,588,310	242,627,408,967	0.002	.....	.....
Nov-12 .....	21	4,547,882,974,292	216,565,855,919	-0.114	.....	.....
Dec-12 .....	20	4,744,922,754,360	237,246,137,718	0.091	.....	.....
Jan-13 .....	21	5,079,603,817,496	241,885,896,071	0.019	.....	.....
Feb-13 .....	19	4,800,663,527,089	252,666,501,426	0.044	.....	.....
Mar-13 .....	20	4,917,701,839,870	245,885,091,993	-0.027	.....	.....
Apr-13 .....	22	5,451,358,637,079	247,789,028,958	0.008	.....	.....

Month	Number of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	Change in natural logarithm of ADS	Forecast ADS	Forecast total dollar amount of sales
(A)	(B)	(C)	(D)	(E)	(F)	(G)
May-13 .....	22	5,681,788,831,869	258,263,128,721	0.041	.....	.....
Jun-13 .....	20	5,623,545,462,226	281,177,273,111	0.085	.....	.....
Jul-13 .....	22	5,083,861,509,754	231,084,614,080	- 0.196	.....	.....
Aug-13 .....	22	4,925,611,193,095	223,891,417,868	- 0.032	.....	.....
Sep-13 .....	20	4,959,197,626,713	247,959,881,336	0.102	.....	.....
Oct-13 .....	23	5,928,804,028,970	257,774,088,216	0.039	.....	.....
Nov-13 .....	20	5,182,024,612,049	259,101,230,602	0.005	.....	.....
Dec-13 .....	21	5,265,283,406,995	250,727,781,285	- 0.033	.....	.....
Jan-14 .....	21	.....	.....	.....	254,668,736,673	5,348,043,470,127
Feb-14 .....	19	.....	.....	.....	258,671,636,250	4,914,761,088,752
Mar-14 .....	21	.....	.....	.....	262,737,453,660	5,517,486,526,869
Apr-14 .....	21	.....	.....	.....	266,867,177,850	5,604,210,734,855
May-14 .....	21	.....	.....	.....	271,061,813,310	5,692,298,079,518
Jun-14 .....	21	.....	.....	.....	275,322,380,320	5,781,769,986,729
Jul-14 .....	22	.....	.....	.....	279,649,915,197	6,152,298,134,326
Aug-14 .....	21	.....	.....	.....	284,045,470,544	5,964,954,881,430
Sep-14 .....	21	.....	.....	.....	288,510,115,513	6,058,712,425,783

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**Figure A.**  
Aggregate Dollar Amount of Sales Subject to Exchange Act Sections 31(b) and 31(c)<sup>1</sup>  
Methodology Developed in Consultation With OMB and CBO  
(Dashed Line Indicates Forecast Values)



<sup>1</sup>Forecasted line is not smooth because the number of trading days varies by month.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71524; File No. PCAOB-2013-01]

### Public Company Accounting Oversight Board; Order Granting Approval of Proposed Rules, Standards for Attestation Engagements Related to Broker and Dealer Compliance or Exemption Reports Required by the U.S. Securities and Exchange Commission and Related Amendments to PCAOB Standards

February 12, 2014.

#### I. Introduction

On October 30, 2013, the Public Company Accounting Oversight Board (the “Board” or the “PCAOB”) filed with the Securities and Exchange Commission (the “Commission”), pursuant to Section 107(b)<sup>1</sup> of the Sarbanes-Oxley Act of 2002 (the “Sarbanes-Oxley Act”) and Section 19(b)<sup>2</sup> of the Securities Exchange Act of 1934 (the “Exchange Act”), proposed rules to adopt standards for attestation engagements related to broker and dealer compliance or exemption reports required by the U.S. Securities and Exchange Commission and related amendments to PCAOB standards (collectively, the “Proposed Rules”). The Proposed Rules were published for comment in the *Federal Register* on November 15, 2013.<sup>3</sup> At the time the notice was issued, the Commission designated a longer period to act on the Proposed Rules, until February 13, 2014.<sup>4</sup> The Commission received two comment letters in response to the notice.<sup>5</sup> This order approves the Proposed Rules.

#### II. Description of the Proposed Rules

Attestation Standard No. 1, *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, establishes requirements for the auditor with respect to the auditor’s examination regarding a broker’s or dealer’s compliance report and establishes requirements that are designed specifically for the

examination required by Exchange Act Rule 17a-5 (“Rule 17a-5”).<sup>6</sup> Consistent with Rule 17a-5, Attestation Standard No. 1 requires auditors to obtain sufficient appropriate evidence to opine on a broker’s or dealer’s statements in its compliance report as to whether:

- The Internal Control Over Compliance of the broker or dealer was effective during the most recent fiscal year;
- The Internal Control Over Compliance of the broker or dealer was effective as of the end of the most recent fiscal year;
- The broker or dealer was in compliance with Exchange Act Rule 15c3-1<sup>7</sup> (the “net capital rule”) and Exchange Act Rule 15c3-3(e)<sup>8</sup> (the “reserve requirements rule”) as of the end of the most recent fiscal year; and
- The information the broker or dealer used to state whether it was in compliance with the net capital rule and reserve requirements rule was derived from the books and records of the broker or dealer.<sup>9</sup>

Attestation Standard No. 1 provides requirements for auditors that:

- Focus the auditor on the matters that are most important to the auditor’s conclusions regarding the broker’s or dealer’s assertions;
- Incorporate consideration of fraud risks, including the risk of misappropriation of customer assets;
- Are designed to be scalable based on the broker’s or dealer’s size and complexity;
- Coordinate the examination engagement with the audit of the financial statements and the audit procedures performed on supplemental information; and
- Describe how to report on an examination engagement in connection with the requirements of Rule 17a-5.

Attestation Standard No. 1 reflects the requirement in Rule 17a-5 that the auditor must obtain reasonable assurance to support the auditor’s opinion. In particular, Attestation Standard No. 1 requires the auditor to obtain reasonable assurance in order to opine on whether the broker’s or dealer’s assertions are fairly stated, in all material respects.

Attestation Standard No. 2 establishes requirements for the auditor with respect to the auditor’s review regarding the broker’s or dealer’s exemption report and establishes requirements that are designed specifically for the review

required by Rule 17a-5.<sup>10</sup> Attestation Standard No. 2 establishes requirements for making inquiries and performing other procedures that are commensurate with the auditor’s responsibility to obtain moderate assurance regarding whether one or more conditions exist that would cause one or more of the broker’s or dealer’s assertions not to be fairly stated, in all material respects. The broker’s or dealer’s exemption report includes the following assertions:

- A statement that identifies the provisions in paragraph (k) of Exchange Act Rule 15c3-3 (the “exemption provisions”) under which the broker or dealer claimed an exemption from Exchange Act Rule 15c3-3 (the “identified exemption provisions”);
- A statement that the broker or dealer (1) met the identified exemption provisions throughout the most recent fiscal year without exception or (2) met the identified exemption provisions throughout the most recent fiscal year except as described in the exemption report; and
- If applicable, a statement that identifies each exception during the most recent fiscal year in meeting the identified exemption provisions (an “exception”) and that briefly describes the nature of each exception and the approximate date(s) on which the exceptions existed.<sup>11</sup>

The procedures required by Attestation Standard No. 2 include evaluating relevant evidence obtained from the audit of the financial statements and the audit procedures performed on supplemental information and are designed to enable the auditor to scale the review engagement based on the broker’s or dealer’s size and complexity. Attestation Standard No. 2 also establishes requirements for the content of the review report.

As part of the Proposed Rules, the Board adopted conforming amendments to several PCAOB auditing and attestation standards, including Auditing Standard No. 3, *Audit Documentation*, Auditing Standard No. 7, *Engagement Quality Review*, and interim attestation standards AT sec. 101 and AT sec. 601.

The Proposed Rules would be effective for examination engagements and review engagements for fiscal years ending on or after June 1, 2014.

#### III. Comment Letters

As noted above, the Commission received two comment letters concerning the Proposed Rules. The commenters expressed support for the

<sup>1</sup> 15 U.S.C. 7217(b).

<sup>2</sup> 15 U.S.C. 78s(b).

<sup>3</sup> See Release No. 34-70842 (November 8, 2013), 78 FR 68911 (November 15, 2013).

<sup>4</sup> Ibid.

<sup>5</sup> See letters to the Commission from Deloitte & Touche LLP, dated December 5, 2013 (“Deloitte Letter”) and Suzanne H. Shatto, dated December 17, 2013 (“Shatto Letter”).

<sup>6</sup> 17 CFR 240.17a-5.

<sup>7</sup> 17 CFR 240.15c3-1.

<sup>8</sup> 17 CFR 240.15c3-3(e).

<sup>9</sup> See paragraphs (d)(3)(i)(A)(2)–(5) of SEC Rule 17a-5.

<sup>10</sup> See 17 CFR 240.17a-5(g)(2)(ii).

<sup>11</sup> See SEC Rule 17a-5(d)(4).