

Regulatory Circular RG02-90

To: Members and Member Organizations
From: Division of Regulatory Services
Re: Annual Audit Requirement
Date: October 25, 2002

All broker-dealers are required to file with their Designated Examining Authority and the Securities Exchange Commission ("SEC") annually-audited financial statements, prepared by an independent accountant, no more than 60 days after the date of the year-end financial statements.¹ This requirement is in addition to the obligation to file an Annual Focus Report.

Failure to Timely File Annual Audit

Members are advised that failure to file audited financial statements with the Exchange on a timely basis may result in the initiation of disciplinary proceedings. Members requiring an extension must submit a written request for an extension signed by the Financial and Operations Principal to the Department of Financial and Sales Practice Compliance at least 10 days prior to the audit due date. Additionally, the request must provide the following information:

- the amount of time requested on the extension;
- the specific reason(s) the extension is being requested; and
- a letter from the outside independent auditors in which the auditor represents that the member is in compliance with SEC Rule 15c3-1, that an unqualified opinion is expected to be issued, and that no material deficiencies or books and records problems exist.

Exemption to the Annual Audit Requirement

Broker-dealers that limit their business to acting as a specialist (DPM), market maker or floor broker that transact business solely with or for other broker-dealers, and who do not carry securities accounts, credit balances or securities for public customers, generally are exempt from the annual audit requirements. The SEC has limited this exemption to specialist (DPMs), market makers or floor brokers that have no contact with public customers and are subject to close daily supervision.

¹ Rule 17a-5(d) of the Securities and Exchange Act of 1934 ("the Act")

Specialist (DPMs), market makers, or floor brokers that engage in more than an occasional investment may, however, be subject to the annual audit requirement.

Broker-dealers claiming an exemption to Annual Audit requirements of Rule 17a-5(d) are required to maintain evidence supporting their qualification for an exemption.

Questions regarding this Regulatory Circular may be directed to the following individuals in the Exchange's Department of Financial and Sales Practice Compliance:

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| Peter Dorenbos | 786-7414 |
| Robert Gardner | 786-7937 |

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