

NASDAQ to Charge Processing Fees for Clearly Erroneous Filings, Effective March 3, 2008



Please Route To: Head Traders; Technical Contacts; Compliance Officers

What you need to know:

- NASDAQ will begin charging fees for clearly erroneous filings in excess of ten filings per calendar month from a NASDAQ member, effective **Monday, March 3, 2008** pending filing with the Securities and Exchange Commission (SEC).
- Each instance of a security filed for review counts as one filing unless meeting an exemption.
- All MPIDs controlled by — or under common control with — the member shall be included when calculating the number of clearly erroneous filings for that member during the calendar month.
- No fee shall be assessed to a member for filing ten or fewer clearly erroneous requests during a calendar month.
- Following the tenth filing, the member shall be assessed a fee of \$250.00 for each additional request.
- NASDAQ offers guidance and tools to help firms in making decisions about clearly erroneous transactions.

Who you should contact:

NASDAQ MarketWatch at 800.211.4953 or 301.978.8501.

What is changing?

NASDAQ® will begin charging fees for clearly erroneous filings in excess of ten filings per calendar month from a NASDAQ member, effective **Monday, March 3, 2008** pending filing with the SEC. The member shall be assessed a fee of \$250.00 for each additional request filed thereafter during the calendar month.

No fee shall be assessed to a member for filing **ten or fewer** clearly erroneous requests during a calendar month. Likewise, fees will not be assessed for requests that are:

- Untimely as filed under the parameters of Rule 11890(a)(2)(A).
- Withdrawn by the requestor within five minutes of filing and before NASDAQ has performed any substantial work on the request.
- Adjudicated by NASDAQ on its own motion under Rule 11890(b).

All MPIDs controlled by — or under common control with — the member shall be included for purposes of calculating the number of clearly erroneous filings by that member during the calendar month.

Why is NASDAQ charging fees?

While NASDAQ fully believes in providing trade dispute resolution and preventing erroneous trades from occurring, processing each request requires significant time and resources. The number of requests filed has significantly increased over the last few years:

- In 2005, 2006 and 2007, NASDAQ processed 841, 3,859 and 5,675 clearly erroneous filing requests, respectively.

- There has also been a significant increase in the number of requests involving trades routed to or from other market centers, further increasing the complexity of processing filings.

Does NASDAQ provide guidance for firms to use when submitting a Clearly Erroneous Filing?

To guide firms through the adjudication process, NASDAQ has posted [Clearly Erroneous Guidance](#) for filing and numeric trade break thresholds to ensure firms have a reasonable expectation as to the NASDAQ's official decision.

Firms should use this guidance to help determine whether a filing may be appropriate when reviewing losses incurred and the potential application of the fee when the firm's tenth filing threshold has been exceeded.

Does NASDAQ offer tools to assist in avoiding and identifying erroneous trades?

Yes. NASDAQ offers the tools as outlined below:

Fat Finger Checks (via Pre-Trade Risk Management)

- Fat Finger Checks allow you to compare price instructions on incoming orders against the current displayed size and price in the market. If the order is not in line with the displayed price and size, the order will be rejected before it can execute.
- Firms can set order limits at several levels to ensure that fat fingered orders never execute.

For more information, please visit our [Pre-Trade Risk Management Fact Sheet](#).

Reg Recon

[Reg Recon](#), available as an add-on service to the [NASDAQ Workstation](#)® and [WeblinkACT 2.0](#), offers a Clearly Erroneous Trade Viewer that gives firms an alert for any potentially erroneous trades executed on the NASDAQ Exchange. If a trade meets the guidance referenced above, an alert will appear for that trade allowing the customer to decide at a glance whether or not to send a filing request to NASDAQ MarketWatch.

Later this month, users will have a fully automated way to select and send their erroneous filings to NASDAQ MarketWatch.

Firms that do not have Reg Recon can subscribe by completing the [NASDAQ Front-End Access Order Form](#) (PDF) and faxing it to NASDAQ Subscriber Services at 212.231.5426.

Where can I get additional information?

- Refer to the [Securities and Exchange Commission Rule Filing](#).
- NASDAQ MarketWatch at 800.211.4953 or 301.978.8501.
- Refer to the [Reg Recon](#) page on the NASDAQ Trader® website.
- Contact [NASDAQ Market Sales](#) at 800.846.0477.

NASDAQ is the largest U.S. electronic equities exchange. With approximately 3,100 companies, it lists more companies and, on average, trades more shares per day than any other U.S. electronic market. It is home to companies that are leaders across all areas of business including technology, retail, communications, financial services, transportation, media and biotechnology. NASDAQ is the primary market for trading NASDAQ-listed stocks as well as a leading liquidity pool for trading NYSE-listed stocks. For more information about NASDAQ, visit the NASDAQ Trader website at www.NASDAQTrader.com.