

ETHICS FLASH PERIODIC TRANSACTION REPORTS

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This Ethics Flash is brought to you by:

Ethics in Government Act
Joint Ethics Regulation
Code of Federal Regulations

BULLS? BEARS? BLACK SWANS?

Little did we know about Wall Street's fascination with fauna until we began drafting this article. A search for terms relevant to the stock market led us down a path that included not only the title of this introduction, but a regular menagerie including hawks and doves, whales, wolves, and more. Go figure....but we digress (already) from the purpose of this edition of the Ethics Flash — **periodic transaction reports**.

All executive branch employees required to file a public financial disclosure report (OGE Form 278e) **may** also have to file periodic transaction reports (OGE Form 278-T). In the Department of the Air Force, these employees include Senate-confirmed political appointees, members of the career and non-career SES, general officers, employees in

Senior Level (SL) and Scientific or Professional (ST) positions, Schedule C employees, highly qualified experts-senior mentors (HQE-SM), and certain other employees whose rate of basic pay exceeds a certain level. The OGE Form 278e already had a section



for filers to report transactions of mutual funds, exchange-traded funds, stocks, corporate and municipal bonds, commodities, real estate, and other assets.

An amendment to the Ethics in Government Act (EGA) in 2012 added an additional requirement to report transac-

tions involving certain types of assets on an OGE Form 278-T (278-T) soon after the sale, purchase, or exchange of certain types of investments instead of once a year. **Failure to file these reports by the deadline subjects the filer to a late filing fee of \$200 for each late report.**

While the requirement has been in place for over a decade, confusion still surrounds periodic transaction reports. Hence, an Ethics Flash. Our hope is to clarify this filing requirement and answer some of the most

commonly asked questions....just don't ask us about wolves or whales. But, absolutely do ask us about unicorns!

As always, this is an overview of the law and not a substitute for legal advice. If you have any questions, please contact an ethics official.

WHAT FILERS **MUST** REPORT

A public financial disclosure filer must file a 278-T **each** time **the filer, the filer's spouse, the filer's dependent children, or the manager** of their brokerage accounts, managed accounts, 401k plans, IRAs, and other investment accounts sells or purchases the following types of assets **and** the amount of the transaction **exceeds \$1,000**:

- Stocks;
- Corporate and municipal bonds;

- Commodity futures;
- Cryptocurrencies (except bitcoin);
- Real Estate Investment Trusts (REITs); or
- Certain other types of securities such as stock options and restricted stock units.

Filers must also report exchanges. For 278-T purposes, exchanges occur as a result of a corporate merger or acquisition. For example, Company A acquires Company B. Company A offers Company B

shareholders one share of stock in Company A for each share of stock in Company B. If the term "exchange" is on your financial statement, consult an ethics official before reporting it on a 278-T. The financial community and the EGA use this term differently—it's confusion like this that keeps us in business!

Remember, this section is about transactions you **must report**. Nothing more should be on your 278-Ts.

IS IT A REPORTABLE PURCHASE OR SALE?

A purchase is very straightforward. If your money, your spouse's money, or your dependent child's money is used to acquire an asset, you have made a purchase. This is a reportable purchase.

Sales are also straightforward. If you, your spouse, or your dependent children received payment when you disposed of an asset, you have made a sale. The "sales price" is the amount of the transaction. Even if you sustained a loss when you sold the asset (i.e., you sold the asset for less than what you paid for the asset), you will

have a reportable transaction if the "sales price" exceeded \$1,000.

If you allow your financial advisor to make investments on your behalf, you are responsible for reporting the transactions your financial advisor executes. You must also report

Type of asset	What report do I file?
Stock	278-T
Corporate or municipal bond	278-T
Commodity future	278-T
Cryptocurrency (except bitcoin)	278-T
Mutual fund	278
Exchange-traded fund	278
Real property	278
Any security not mentioned above (such as stock options, restricted stock units, certain investment limited partnerships and hedge fund)	278-T

Figure 1

the transactions that occur in an account that uses an algorithm to make stock changes. There are no exceptions in the Ethics in Government Act from the requirement to report transactions in these types of accounts.

Whether you report a trans-

action on a 278-T or the OGE Form 278 depends upon the type of asset that was purchased, sold, or exchanged. See **Figure 1**, left, for guidance on which report to use for the most common asset types. Per the Office of Government Ethics, you are not required to file a 278-T to report the purchase and sale of bitcoin because bitcoin is a commodity rather than a security. Remember, only transactions involving certain types of securities are required to be reported on a 278-T.

WHAT YOU DO NOT REPORT ON THE 278-T

There are many financial activities that do not qualify as transactions, and you are not required to report them on a periodic transaction report. For example, you do not need to report an asset received through an inheritance or as a gift. If you change your investment advisor, the assets in your account transfer from the old to the new account. This transfer is not a transaction because no assets were bought or sold.

However, if assets are sold after the transfer, you may have a reportable transaction depending the type of asset sold and the amount of the sale. If you own a municipal or corporate bond and the bond matures, that activity is not a transaction. You also do not report purchases and sales of shares of mutual funds and exchange-traded funds, and other similar excepted investment funds. These would be reported on your annual and

termination reports.

The law also excludes reporting the (1) purchase or sale of real property; (2) underlying holdings of excepted investment funds, to include REITs; (3) treasuries; (4) life insurance and annuities; (5) cash accounts; and (6) assets in a government retirement system (e.g., Thrift Savings Plan) on 278-Ts. But like mutual funds, these would be reported on your annual and termination report.

Recent updates to the Joint Ethics Regulations (JER) made several changes to the filing requirements of the 278-T. Of note, the JER now **prohibits** voluntary disclosures. You may not include non-reportable transactions on your 278-Ts. You must wait until you file your next annual and/or termination report.

WHERE TO REPORT TRANSACTIONS

When you have a transaction that meets the reporting requirements for a 278-T, you must use the **Integrity** e-filing system (<https://integrity.gov/login>). For each transaction on a 278-T, provide the following:

- Provide the full name of the stock, corporate municipal bond, commodity future or cryptocurrency;
- Select the transaction type (purchase, sale, or exchange);
- Enter the date of each transaction; and
- Select a category representing the amount of the transaction.



Once complete, you will then submit the report. To do so, select "Preview and Submission" from the left menu

and follow these steps:

- Scroll down until you see the "Filer Statement" checkbox;
- Select the checkbox; and
- Click the "Submit" button. You will receive a message you submitted the report. You can also verify you signed the report by selecting "Printable View" from the left menu. You should see your digital signature and date on the first page of the 278-T. If you do not, then your report was not submitted.

As a reminder, — and we refer you back to the "What You Do Not to Report" section

above — do not make voluntary disclosures of non-reportable assets or "over-report" your transactions on the 278-T. Ethics Officials must delete any 278-T that lists only non-reportable assets. Or, if the 278-T is a mix of both reportable and non-reportable assets, the Ethics Official may either return the report to the filer for removal of the voluntary disclosures. An ethics official may also, with written notice to the filer, delete non-reportable transactions prior to certifying the 278-T.

FILING DEADLINES— AVOIDING THE LATE FEE

Let's circle back around to that **\$200 late fee** we mentioned in the introduction. It's important to avoid incurring a late fee as waivers are few and far between, especially if you previously received a waiver. A periodic transaction report must be filed within the earlier of **30 days** after you have knowledge of the transaction or **45 days** after the date of the transaction. If you are a frequent trader, or you authorized someone to make investments on your behalf, you must inform them that they must notify you when they make qualifying purchases and sales so that you can timely file a report.

The best way to avoid the late filing fee is to submit the 278-T every 30 days. You also will report only one month's transaction on a 278-T. For example, if you have a reportable transaction that occurred at the end of August and then another at the beginning of September, file one 278-T for the August transaction and one for the September transaction. The JER updates require

you report only one month's transactions on a 278-T.



The due date of the report is calculated from the date of the earliest transaction on the 278-T. So, if you list 50

transactions on a 278-T and one transaction occurred more than 30 days prior to the date you submitted the report, the report is late with regard to that transaction. You want to make sure you are filing each 278-T within 30 days of the earliest

transaction. For an extension of the due date, you must file a written request. The maximum extension allowed is 90 days.

Remember, you are only reporting those transactions that involve stocks, corporate or municipal bonds, commodity futures, cryptocurrencies, and certain other securities such as stock options and restricted stock units. You do not file a 278-T for transactions involving mutual funds, exchange-traded funds, and real estate. Report these type of transactions on the annual and termination OGE Form 278e.

FREQUENTLY ASKED QUESTIONS (FAQS)

What's an Ethics Flash without a good FAQ....lacking, that's what! The following are the most asked and answered questions when it comes to 278-Ts. Remember, when in doubt, reach out to an Ethics Official for advice specific to your circumstance. Side note — the mention of any specific security or fund in the FAQ does not equal an endorsement (yup, we went there!).

Question: On 12 July, my financial advisor purchased shares of the Vanguard Large Cap ETF. The amount of the purchase was \$1,300. She also purchased shares of stock in Aspen Group, Inc. The amount of that purchase was

\$1,500. Which transactions am I required to report on a 278-T?

Answer: You are required to report only the purchase of the shares of Aspen Group, Inc. stock. You must file your 278-T not later than 30 days after 12 July. You are required to report this transaction because it is a stock while the purchase of the Vanguard Large Cap ETF is a non-reportable transaction.

Question: During the month of March, I made the following purchases and sales:

(1) On 4 March, I sold stock in AT&T for \$1,500.
(2) On 7 March, I purchased stock in Exxon Mobil for

\$900.

(3) On 15 March, I purchased additional stock in Exxon Mobil for \$700.

(4) On 20 March, I sold stock in Advanced Micro Devices for \$900.

Which transaction must I report on the 278-T?

Answer: Only the sale of the AT&T stock. It is the only transaction that exceeds \$1,000. The report must be filed within 30 days of 4 March, the date of the AT&T sale. Each purchase of the Exxon Mobil stock was \$1,000 or less and occurred on separate dates.

Question: My financial advisor purchased the following

stocks for my IRA on the dates indicated:

(1) On 2 May, she purchased stock in Pfizer, Inc. for \$1,200.

(2) On 18 May, she purchased stock in the Sherwin Williams Co. for \$1,100.

Which transactions must I report on the 278-T?

Answer: Report both transactions. Both assets are stocks, and each transaction exceeded \$1,000. The report must be filed 30 days after 2 May, the date of the earliest transaction.

More Questions?

Contact us:

SAF.GCA.Ethics.Workflow@us.af.mil

The Air Force Ethics Office directs the daily activities of the Department of the Air Force ethics program. We serve as legal counsel to the Secretariat, Air, and Space Staff. While we are always happy to assist with any ethics issues, individuals outside of Headquarters should consult with their local ethics counselor.

Should you have any questions, please contact us at SAF.GCA.Ethics.Workflow@us.af.mil