

**TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE
PRESENTED AT 8/16/2011 HEARING BY NM AGO**

NPM ADJUSTMENT RISKS

ALL NUMBERS ARE ESTIMATES ONLY

YEAR	MARKET SHARE LOSS	SIGNIFICANT FACTOR FINDING	QUALIFYING STATUTE VALID	DILIGENT ENFORCEMENT	WORST-CASE SCENARIO	MORE LIKELY LOSS	STATUS
1999-2002	YES	YES	YES	Not Determined			SETTLED
2003	YES	YES	YES	Currently before Arbitration Panel	\$34 Million	\$7 Million	In NPM Adjustment Arbitration
2004	YES	YES	YES	Challenge filed	\$36 Million	\$8 Million	To go to Arbitration
2005	YES	YES	YES	Challenge filed	\$38 Million	\$7 Million	To go to Arbitration
2006	YES	YES	Challenge filed	Challenge filed	\$35 Million	\$5 M - DE only \$34 M if QS not valid	Only NM and VA have a QS challenge.
2007	YES	YES	Challenge filed	Challenge filed	\$35 Million	\$6 M - DE only \$35 M if QS not valid	Only NM and VA have a QS challenge.
2008	YES	YES	Challenge filed	Challenge filed	\$44 Million	\$8 M - DE only \$44 M if QS not valid	Only NM and VA have a QS challenge.
2009	YES	To Be Determined by Economics Firm	Challenge filed	Challenge filed	\$45 Million	\$9 M - DE only \$45 M if QS not valid	Only NM and VA have a QS challenge.
2010	YES	To Be Determined by Economics Firm	Challenge filed	Will Likely be Challenged	\$41 Million	\$10 M - DE only \$41 M if QS not valid	Only NM and VA have a QS challenge.
2011	Determined by Auditor (PwC)	To Be Determined by Economics Firm	Challenge filed	Will Likely be Challenged	\$38 Million	\$10 M - DE only \$38 M if QS not valid	Only NM and VA have a QS challenge.
	TOTAL RISK		\$237 Million Worst case 2006 - 2011	\$347 Million Worst case 2003 - 2011	\$347 Million Worst case 2003 - 2011	DE ONLY \$ 70 M DE AND QS \$260 M 2003 - 2011	

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NPM ADJUSTMENT OVERVIEW

NPM ADJUSTMENT FACTORS

1. Did PMs suffer a Market Share Loss for that year [Determined by the Independent Auditor - PwC]
2. Was the MSA a Significant Factor in the Market Share Loss [Determined by an Economics Firm]
3. Did the State have a Qualifying Statute in place during the Entire Calendar Year [Determined by an Economics Firm]
4. Did the State Diligently Enforce its Qualifying Statute

NPM ADJUSTMENT REPAYMENT

1. Repayment is made from future years' payments
2. No payment from General Fund or Tobacco Settlement funds are required unless NM decides not to participate in the MSA.
3. Damages are paid to PMs based on Market Share loss. They are entitled to repayment of full damages.
4. Full Damages are paid to PMs by States found to not have a Qualifying Statute or that didn't Diligently Enforce their Statutes. Damages payment is limited to amount of State's payment for that year.
 - E.g. PM damages for 2003 are over \$1 billion. The \$1 billion will be paid by States without Qualifying Statute or that did not diligently enforce.
 - If all states did not diligently enforce, NM's share of damages will be close to \$7 million.
 - If only 10 States did not diligently enforce, NM's share of damages would be our full payment for 2003 -- \$34 million.
5. Over the years, all states' Diligent Enforcement efforts improved. New Mexico's DE since 2005 is excellent. However, if NM loses the Qualifying Statute Challenge, we will most likely be one of few states paying the NPM Adjustment Damages, since other states were very good at diligently enforcing by 2006.

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