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Analysis of Abusive 10b5-1 Trading Plan Behavior **3DAdvisors, LLC Special Report**

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This *Special Report* covers insider selling under Rule 10b5-1 trading plans that abuses the intent of the Rule and which, though relatively rare, represent a type of insider trading behavior that is difficult to detect but represents very important and relevant investment information. We identify five separate behavioral criteria by which we classify suspect trading under 10b5-1 plans, and offer actual examples that meet each criteria. In the process of providing examples, several new companies are covered in this report, and the Appendix lists other examples where we have identified significant trading behavior taking place under the cover of Rule 10b5-1 trading plans.

Special Reports are published periodically on topics of general interest to 3DAdvisors, LLC subscribers.

Companies highlighted in this Special Report

- ▶ Alliance Data Systems Corp. (NYSE:ADS)
- ▶ AutoDesk Inc.(NASDAQ:ADSK)
- ▶ F5 Networks Inc. (NASDAQ:FFIV)
- ▶ Network Appliance Inc. (NASDAQ:NTAP)
- ▶ Transocean Inc. (NYSE:RIG)
- ▶ Triad Hospitals Inc. (NYSE:TRI)

Discussion of 3DAdvisors Findings

Perhaps nothing has provided selling insiders better cover for their actions than the existence of Rule 10b5-1 trading plans, which are designed to provide them safe harbor from the standard regulatory restrictions placed on insiders for knowingly trading on material, non-public “inside” information¹. When properly following the requirements of Rule 10b5-1, these trading plans permit the insider to sell shares using pre-established criteria to diversify their holdings in an orderly fashion without fear of an adverse investor reaction, or worse, a legal challenge from regulators or other interested parties. These features of 10b5-1 plans are very attractive to many insiders, especially

¹ FINAL RULE: SELECTIVE DISCLOSURE AND INSIDER TRADING, Securities and Exchange Commission, File No. S7-31-99. Effective date: Oct. 23, 2000. <http://www.sec.gov/rules/final/33-7881.htm>

insiders who receive a substantial portion of their compensation in the form of stock options. Clearly, given the intent of the rule, it is understandable that *most* 10b5-1 sales (initiated under a plan) do not represent significant behavior that indicate there may be underlying financial or operating problems at a company. However, a small percentage of the total number of 10b5-1 transactions occurring under such trading plans circumvent the letter and spirit of the Rule, and *do* represent significant and important executive behavior that should not be ignored by investors.

It is true that trading plans meant to meet the requirements of Rule 10b5-1 must be in writing and must meet certain other basic requirements, such as designating how many shares will be sold and rules governing the prices and timing of sales under the plans. It is also factual, however, that in the Rule 10b5-1 adoption phase, the SEC backed off on its initial requirement that plan details be disclosed to the public. Making matters more intriguing, these plans can be modified or cancelled causing new criteria to be put into place, by the same insider, criteria not disclosed to the public.

Legal experts advising corporate clients on 10b5-1 matters advise them of the caveat that these plans come with a general “Good Faith” provision that gives the SEC the right to challenge the affirmative defense created by Rule 10b5-1 when abuse is suspected. In light of this, the experts counsel against modifying trading plans and/or selling large percentages of their holdings under such plans. The same experts also recommend public disclosure of new plans and a delay period (of at least 30-60 days) between such disclosure and actual commencement of selling under the plan. This minimizes the risk of challenges of the “Good Faith” provisions of the Rule since a plan is only effective if it is adopted while the seller “does not possess inside information”. The theory here is that the seller stands on better ground, with regards to challenges, the more time that passes between the plan’s implementation and the commencement of selling.

The use of such plans is always carefully reviewed by us as they have become one of the more interesting areas where we have identified indicative trading and options behavior. When certain insiders make moves, using trading plans that circumvent the spirit of Rule 10b5-1, our sensitivity to the underlying trading activity is greatly enhanced. Take a look at RSA Security Inc. (NASDAQ:RSAS), which we highlighted in the *Insider Research Bulletin* published on 12/10/04. At the time, RSAS shares were trading at a 36-month high in the \$23 range. Insiders though, under the camouflage of 10b5-1 plans, had managed to clear out of most of their holdings (vested options and stock). By early May, and with the shares trading in the \$10 range, it was clear that those involved had succeeded in something much more than the benign diversification often assumed to be the purpose of the plans.

To be sure, 10b5-1 plans are numerous and the vast majority of the sales under them are truly compliant with the spirit of the Rule. In this first 3DA *Special Report* on the subject, however, we bring to light relatively rare but important insider behavior associated with trading plans that we feel our clients should be aware of.

Based on our research, we have created a methodology for analyzing 10b5-1 plans based on a number of different criteria (see below). Since analysis of trading plans can be quite subjective, these concrete measures are useful in helping to evaluate the negative behavior we sometimes observe under such plans and assist us in isolating significant anomalous situations that require further investigation.

For starters, while a large number of corporate executives have adopted plans, we are more interested in those companies that have multiple insiders whose trading patterns are similar under pre-arranged plans. To narrow our search, we have singled out only those firms with three or more insiders that have executed 10b5-1 trades since January 2005 (though their plans may have been adopted earlier). From there, we analyzed each company's individual plan participants based on the criteria below:

- ➡ Criteria #1: Holdings Deterioration. Have a majority of those trading in-plan reduced their holdings by significant percentages (typically more than 25%)?
- ➡ Criteria #2: Out-of-Plan Selling. Had plan participants gone outside of their respective plans to distribute additional shares?
- ➡ Criteria #3: Plan Modification/Termination. Did more than half of the active participants modify their plans more than once since adopting their first plan?
- ➡ Criteria #4: Plan Disclosure. Are companies and individual participants sufficiently disclosing the terms of newly-adopted 10b5-1 plans?
- ➡ Criteria #5: Delay Period before Selling Commencement. Are participants waiting 30 to 60 days after plan adoption before executing their first plan sales?

We have ranked these measurements based on our assessment of their significance to not only investors, but to the plan's efficacy as an affirmative defense to insider trading violations. For example, selling shares out of plan could jeopardize one's defense in an SEC investigation or class action suit, whereas the potential ramifications of selling shortly after a plan's adoption are considerably less. Nevertheless, selling that leads to large holdings reductions, one of the most revealing criteria of our normal insider selling analysis, certainly doesn't fall into any gray area. Our sensitivity to this issue becomes even more heightened when the holdings deterioration is done under the guise of 10b5-1 plans.

It is important to note that while each of these companies that we highlight below has hit our screens for meeting at least one of the applied criteria, a substantial number actually fall into multiple categories. Insiders at the companies, which have engaged in the most egregious trading plan behavior, are at a higher risk of being targeted by litigious shareholders and regulators, and thus their behavior more likely suggests underlying financial or operating problems that have not been disclosed.

Criteria #1: Holdings Deterioration

*"Some executives mistakenly believe that Rule 10b5-1 plans must cover all their holdings. Not so. We recommend that an executive make only a small part of his holdings -- perhaps 20 or 25 percent -- subject to Rule 10b5-1 instructions. "*²

² Morrison Foerster <http://www.mofo.com/news/updates/bulletins/bulletin02013.html>

Here are some companies where we've identified significant holdings deterioration under the cover of 10b5-1 trading plans:

Company	Ticker	Company	Ticker
AutoDesk	ADSK	Lam Research	LRCX
Ask Jeeves	ASKJ	Network Appliance	NTAP
Caremark Rx	CMX	OSI Pharmaceuticals	OSIP
F5 Networks	FFIV	Pediatrics Medical Grp	PDX
Hyperion Solutions	HYSL	Silicon Laboratories	SLAB
JetBlue Airways	JBLU	Station Casinos	STN
Lab Corp.	LH	Triad Hospitals	TRI

FOCUS COMPANY #1: F5 Networks Inc. (NASDAQ:FFIV)

To be sure, many observers became accustomed to the regular 10b5-1 plan insider sales at F5 Networks over the past year. We'd be willing to bet, however, that most of these observers missed the fact that, by May of 2004, these F5 insiders had managed to unload practically all of their holdings, including their vested options. We covered this situation in two prior reports, published on 04/13/05 and 05/26/05.

In addition, the shares being sold under the trading plans were increasing as time moved on, anything but the steady rate of selling we see from typical trading plans. The acceleration of selling ultimately led to dramatic holdings reductions, for the Company's most senior executives, of between 47% and 99%. Adding to the magnitude of the situation is the fact that option grants had been on the decline, year-over-year at the Company, making it improbable that this group would be able to replenish their holdings anytime soon from new option grants.

F5 shares were in the \$55 range at the time of our initial reports, which covered the first round of aggressive selling this year. By May, however, previously granted options had vested and the same insiders wasted no time exercising them and immediately clearing out the underlying shares, which were in the \$50 range, by that time. The sellers included CEO **John McAdam** whose holdings had been reduced 51% over the prior year. Also selling were CFO **Steve Coburn** (99% reduction); GM, Security Business Unit, **Jeffrey Pancottine** (99%); General Counsel **Joann Reiter** (80%) and Sr. V.P., Business Operations, **Edward Eames** (47%). Rarely have we seen such a rush to liquidate holdings by a group of top company executives as we have seen here, and all this under the cover of 10b5-1 trading plans.

Making this matter all that much more interesting is the fact that on June 13th CFO Steve Coburn announced his resignation, effective "in the fourth quarter". The Company announcement added "With the announcement of Coburn's planned departure, McAdam said he believed it was appropriate to set aside the Company's policy of updating financial guidance for the current (third) quarter."

It seems to us that the fact that Coburn, and other high-ranking insiders, have all managed to stealthily clear out most of their holdings during the same time period should not be viewed as a coincidence. More importantly, their behavior of using the veil of 10b5-1 plans to obfuscate the fact is not lost on us.

Figure 1. FFIV Daily Closing Price, June 1, 2004 through June 15, 2005. Blue shaded area is most recent round where six insiders sold 317,259 shares that led to additional significant holdings reductions, all under 10b5-1 trading plans. Also note that this round of selling was well off the recent highs. Source: Reuters and FFIV SEC Filings.



Criteria #2: Out-of-Plan Selling

“A Rule 10b5-1 trading plan may elevate the litigation risk for any trades executed outside the plan. Because an insider is presumably meeting his needs for diversification and liquidity through his Rule 10b5-1 trading plan, a plaintiff would likely argue that any additional trades must be for another, illegitimate, purpose. Accordingly, it is prudent for insiders to limit their trading to a Rule 10b5-1 trading plan.”³

Here are some companies where we’ve identified significant out-of-plan sales:

Company	Ticker
Countrywide Financial	CFC
JetBlue Airways	JBLU

³ Compliance Week <http://www.the10b-5daily.com/10b5-1%20Article/CW-Trading-Plans-0707041.pdf>

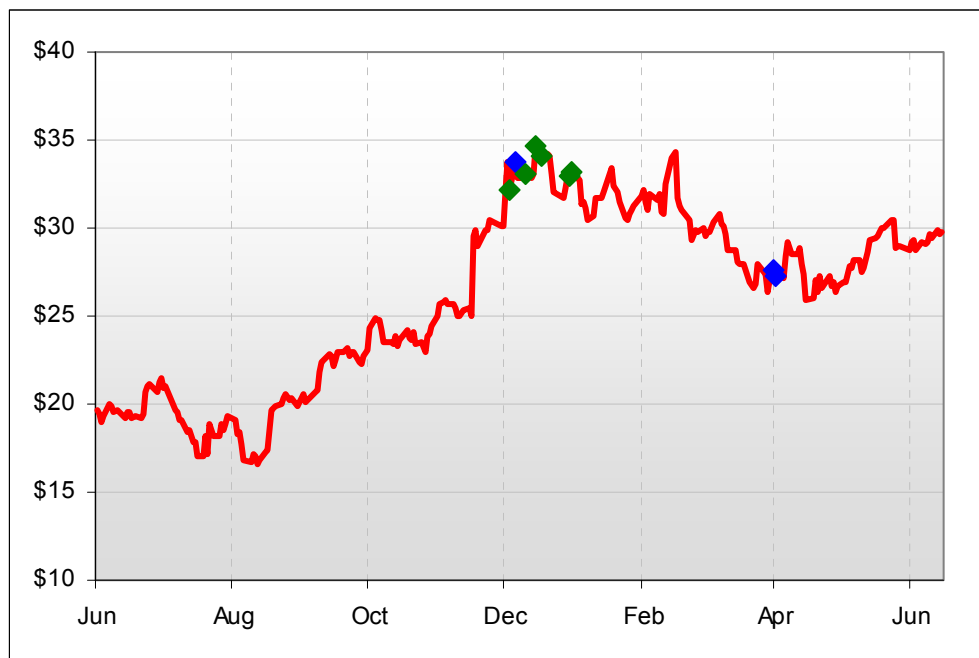
Network Appliance	NTAP
Rambus	RMBS
Triad Hospitals	TRI

FOCUS COMPANY #2: Network Appliance Inc. (NASDAQ:NTAP)

According to the legal community, an executive that chooses to sell out-of-plan after adopting a trading plan is at high risk of jeopardizing safe-harbor protection. We also feel the existence of parallel selling models, those in plan and those outside it, could give rise to suspicions that the plan was adopted with an ulterior motive. It is probably no coincidence, because of possible repercussions, that our research turned up a minimal number of out-of-plan sales. Of the few companies that had insiders trading outside their plans, only network storage provider Network Appliance had multiple executives exposing themselves, and in a very aggressive fashion at that.

The behavior is even more compelling when you take into account the selling came from two of the Company's most visible employees, CEO **Daniel Warmenhoven** and Executive V.P., Chief Strategy Officer **James Lau**, Company veterans that have accumulated sizeable ownership positions over the years. But the extent of their holdings certainly doesn't give them special privileges when it relates to trading plan abuses.

Figure 2. NTAP Daily Closing Price, June 1, 2004 through June 15, 2005. Blue diamonds are the dates where Daniel Warmenhoven sold 607,276 shares, and the green diamonds are where James Lau sold 157,723 shares, all sales outside of their respective trading plans. Source: Reuters and NTAP SEC Filings.



Both execs are currently trading under their original plans which were implemented in June 2004, however, since December, they have frequently traded outside of their respective plans, apparently unable to resist cashing in the rapid appreciation in the shares in late November. Warmenhoven's plan calls for a 25,000-share sale each month, which he had been adhering to strictly. However, on December 6th and on March 30 and 31st, he went out of plan to monetize 607,276 additional shares, a majority of which were held in both a limited partnership and a family trust.

Another aspect of the activity that caught our attention is the escalation of Warmenhoven's selling once he adopted his plan. Typically, we wouldn't expect to see an insider become more aggressive with their diversification once in a plan. The expectation is that the plan will give them a vehicle to slowly distribute shares over a period of time. In this case, Warmenhoven had been selling on average 140,000 shares per quarter, but has increased his quarterly volume 80% since he implemented his trading plan last June. The distributions shed four times more than he sold within his trading plan since December.

Lau, who in similar fashion sells 33,000 shares monthly out of a joint trust with his wife, went out of plan to sell an additional 157,723 shares in December from the same trust. With the exception of Triad Hospitals (see below), never before have we seen executives not only dumping this many shares out of plan, but exposing the activity by executing the trades over an extended period with multiple transactions. At the three other companies in this report that met this criterion, there was not one instance of an exec executing more than one out-of-plan sale.

Criteria #3: Plan Modification/Termination

*"Rule 10b5-1 also has a general "good faith" provision that gives the SEC the right to challenge the affirmative defense created by Rule 10b5-1 when it suspects abuse. For this reason, we recommend that executives refrain from modifying or canceling plans once they are in place (although modifications are permitted by Rule 10b5-1 and may be appropriate in rare cases)."*⁴

Here are some examples of Companies where we have observed plan modifications:

Company	Ticker
Alliance Data Systems	ADS
Bausch & Lomb	BOL
Countrywide Financial	CFC
Transocean	RIG
Station Casinos	STN
Seagate Technology	STX

⁴ Morrison Foerster <http://www.mofo.com/news/updates/bulletins/bulletin02013.html>

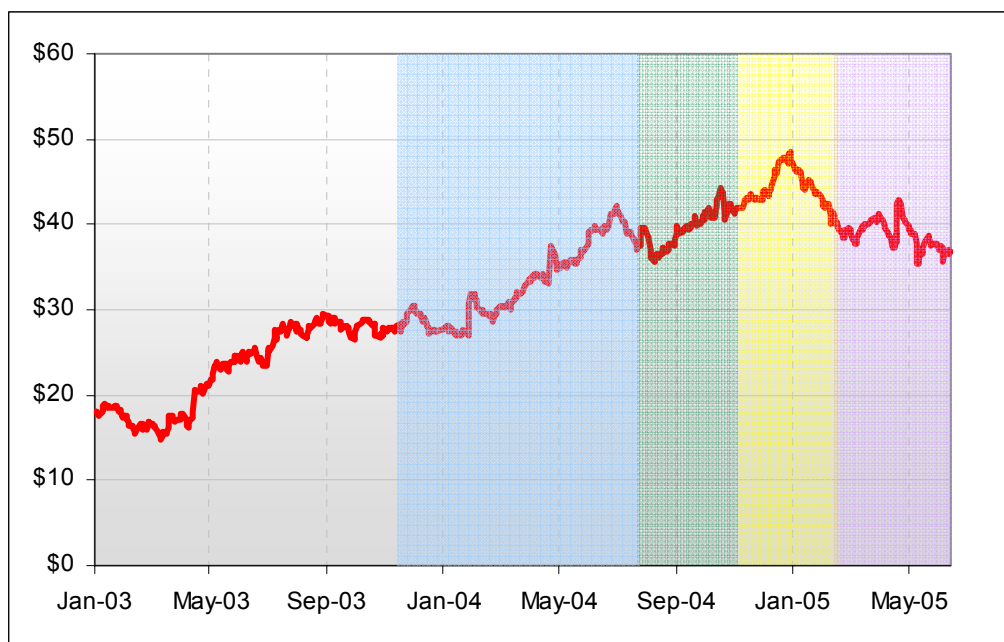
FOCUS COMPANY #3: Alliance Data Systems Corp. (NYSE:ADS)

There are few better examples of the abuses of 10b5-1 plans through plan modification than Station Casinos (STN), which we've covered in two earlier reports (07/13/04, 10/13/04). However, our findings at Alliance Data Systems, of executives jumping in and out of multiple plans, though not nearly as blatant, certainly stands out amongst the rest of the companies in this group.

A number of ADS insiders adopted trading plans back in November 2003, and to their credit, properly disclosed not only the terms of the plans, but the total shares to be sold as well. By July or August of 2004, however, each plan participant jumped into another plan, only this time, increased their planned selling volume between 100% and 300%. If an insider were to keep within the spirit of the Rule, an increase in shares sold would also result in an increase in the term of the plan. The opposite has occurred at ADS. After the initial plans were set with an eight or nine month term, the second plans (at higher selling volumes) called for terms ranging from four to seven months. It is clear that insiders were accelerating both the volume and pace of their selling.

It is in the third round of plan adoptions that things really get interesting. Two execs, Executive V.P., President, Retail Credit Services **Ivan Szeftel** and Executive V.P., President, Utility Services **Michael Beltz** adopted three-month plans in early November and December. Legal experts have advised against entering into short-term plans because it opens the door to regulatory questions regarding the timing and manipulation of the activity. This concept becomes even more evident when you take into account that Szeftel sold just days after establishing his plan.

Figure 3. ADS Daily Closing Price, January 2, 2003 through June 15, 2005. Shaded areas are the periods covered by the four trading plans entered into by Ivan Szeftel. Note that the last plan (started in February) was implemented well off the recent highs, and Szeftel made his most aggressive sales immediately after implementation.



After the completion of the November plans (the plan is complete in this case once they have sold all the shares allowed for under the terms of the plan), both Szeftel and Beltz, along with three additional insiders, established short-range plans in February. Only this time, the plans became even shorter in duration and allowed for their largest selling to date and this when the issue was in the midst of a 20% decline. Chairman, CEO **Michael Parks** set up his own one-month plan, while chief financial officer **Edward Heffernan's** new plan covered less than three months.

There are two clear patterns that set apart Applied Data's trading plans from those seen at other companies. First, the earliest trading plans were established with parameters that met the practicality requirements of trading plans – they were of sufficient length and reasonable amount of shares. Insiders strayed from this when their second plans were shortened and the shares available for sale were more than doubled. Not only did they continue to modify the plans with more favorable terms (to themselves), but did so into considerable share-price weakness. Although the sales have thus far not led to any meaningful holdings deterioration (i.e. greater than 25%), these execs have still manipulated their trading plans to give themselves advantageous trading opportunities, all under safe harbor protection of Rule 10b5-1.

Criteria #4: Plan Disclosure

*"It is critical that any Rule 10b5-1 trading plan, as well as any trades made pursuant to the plan, are adequately disclosed by the company in its SEC filings so that the court can examine the information on a motion to dismiss. Merely disclosing that the trading was done pursuant to a Rule 10b5-1 trading plan, however, may not be enough to convince the court that no inference of scienter can be drawn. As a result, companies should also disclose the existence of the Rule 10b5-1 trading plan, as well as some or all of its terms, when the plan is adopted."*⁵

Here are some representative companies where we've identified insufficient disclosure of 10b5-1 activity:

Company	Ticker	Company	Ticker
AutoDesk	ADSK	Lam Research	LRCX
Ask Jeeves	ASKJ	OSI Pharmaceuticals	OSIP
Avaya	AV	Qualcomm	QCOM
F5 Networks	FFIV	Silicon Laboratories	SLAB
Fair Isaac	FIC	Storage Technology	STK
Hyperion Solutions	HYSL	Triad Hospitals	TRI
Lab Corp.	LH	YUM Brands	YUM

⁵ Compliance Week <http://www.the10b-5daily.com/10b5-1%20Article/CW-Trading-Plans-0707041.pdf>

FOCUS COMPANY #4: AutoDesk Inc. (NASDAQ:ADSK)

Perhaps “insufficient” is not the correct term for AutoDesk’s 10b5-1 disclosure practices. Instead, the term should be, more correctly put, “misleading”. This became quite evident when, after a long period, key ADSK insiders filed a number of trading plans beginning in September of 2004. The Company’s disclosure of these plans, however, seemed structured in a way to keep observers off the scent.

ADSK’s Form 8-K disclosures of these various plans discuss how the insiders involved planned to “exercise certain options” over time under the plans which were “established as part of the officers’ individual long-term strategies for asset diversification and liquidity.” Certain indeed! Since these disclosures, those involved have exercised nearly all of their vested options and have sold the underlying shares. The holdings reductions involved go far beyond the diversification motives the Company would like us to infer as well, with liquidations ranging between 54% and 90% (over the past 12 months) for three of them: COO, **Carl Bass** (88%); V.P. Worldwide Sales, **George Bado** (55%); and General Counsel **Marcia Sterling** (90%). In other words, the correct interpretation of the Company’s “certain options” disclosure should more accurately read, “everything exercisable”.

As a group, the Company’s named executives, (excluding CEO **Carol Bartz**) had nearly four million exercisable options back in 2002. This total was down to just 90,000 vested options as of May, with only another 50,000 vesting (on June 28th) for Carl Bass, after which there will be 275,000 more options vesting between September and November of this year. Based on the trends we are seeing, however, it is our expectation that most of these will be quickly monetized as they vest.

Criteria #5: Delay Period before Selling Commencement

“We recommend a “lead-in” period for two reasons. First, the language of Rule 10b5-1 itself arguably provides a defense in situations in which the seller may have material nonpublic information at the time the Trading Plan was established, but that information has either been disclosed to the public or has become “stale” by the time the first trade is executed. Second, even if the rule itself does not explicitly provide a safe harbor in such situations, the “lead-in” period decreases the likelihood of an insider trading violation under the securities laws, which requires an intent to deceive the market by conducting trades based on inside information.”⁶

Here are some companies where we’ve identified insiders selling immediately after plan adoption:

Company	Ticker
Alliance Data Systems	ADS
AutoDesk	ADSK

⁶ Mintz Levin <http://www.mintz.com/images/dyn/publications/10b5-1tradingplans.pdf>

Bausch & Lomb	BOL
Countrywide Financial	CFC
Lincare Holdings	LNCR
Network Appliance	NTAP
Transocean	RIG
Station Casinos	STN
Seagate Technology	STX

FOCUS COMPANY #5: Transocean Inc. (NYSE:ADS)

On February 15th, Company vice president and controller **William Henderson** abruptly resigned after holding his position for less than seven months since joining RIG from Cooper Cameron. Three days later, on the same day the Company made Henderson's resignation public, it was also announced that President, CEO **Robert Long** had entered into his first 10b5-1 trading plan. Long wasted little time selling within the plan, as four days following the plan's adoption he executed a 76,400-share sale, which was his first sale in nearly four years.

Some might conclude that Long entered into the plan while in possession of material information: the resignation of a key finance executive. In order to prevent this perception, he could have easily established the parameters of the plan so that sales didn't commence for a period of thirty to sixty days. However, by selling immediately, he left the door open for not only public scrutiny, but a regulatory inquiry as well. This seems to be a pattern for Transocean execs, as General Counsel **Eric Brown** is now trading under his third plan since February 2004 and has executed the first sale following a new plan at an average of ten days following adoption. Brown, who has probably the most extensive knowledge of Rule 10b5-1, entered into his second trading plan on February 17th, before the Company went public with Henderson's resignation.

Insider	Position	Avg. Days Between Plan Adoption and Commencement
R. Long	P, CEO, Director	4
E. Brown	SVP, GC	10
D. Tonnel	Controller	23

In addition to being emblematic of the delay period criteria, Transocean has also hit our screens for additional 10b5-1 criteria, ranking it in the top tier of companies with trading plan behaviors that we focus on. We should first point out that a number of executives have amended their trading plans multiple times since insiders first implemented their plans. As mentioned, Brown is on his third plan in just over a year

and has increased his selling in each subsequent plan. Executive V.P. and chief operating officer **Jean Cahuzac** has exhibited similar behavior, as he too is currently trading under his third plan since February 2004. Though the 10b5-1 selling started at the Company back in early 2004, it wasn't until this year that the selling not only intensified, but began having a noticeable effect on each individual's ownership position. Transocean's top four senior executives have sold between 40% and 60% of their holdings year-to-date, all under the cover of their respective trading plans. In fact, Long and Cahuzac's holdings are now at their lowest levels since 2002. It appears to us that Transocean has allowed its executives to skirt the intended application of Rule 10b5-1, prompting us to review accounting and governance behavior at the Company.

Instances where multiple criteria for abuse of trading plans have occurred

Just as we consider overlays of behavior in the trading, accounting and governance areas to be more significant than observing behavior in just one area, we are also more interested in situations dealing with 10b5-1 trading plans where more than one of the criteria described above are found in the same company. To be sure, these situations are rare, but when we do find them, they show the most blatant disregard for the true purpose and intent of Rule 10b5-1, and make them a sure candidate for review of accounting and governance behavior.

Here are some representative companies where we've identified multiple criteria for abusive 10b5-1 behavior. For each criterion that is met, a company gets one star:

Company	Ticker	Stars
Triad Hospitals	TRI	****
Countrywide Financial	CFC	****
Station Casinos	STN	****
Transocean	RIG	****
Ask Jeeves	ASKJ	***
F5 Networks	FFIV	***
Hyperion Solutions	HYSL	***
Lab Corp.	LH	***
Lam Research	LRCX	***
OSI Pharmaceuticals	OSIP	***
Storage Technology	STK	***
Alliance Data Systems	ADS	***
Bausch & Lomb	BOL	***

FOCUS COMPANY #6: Triad Hospitals Inc. (NYSE:TRI)

Given the context of this report, we are compelled to highlight one of the companies showing the most 10b5-1 issues that we look for. With this in mind, it didn't take long to choose Triad Hospitals. Our clients may recall from our report on 05/03/05, that CFO **Burke Whitman**, a Lieutenant Colonel in the U.S. Marine Corps Reserves, was called up to active duty in March. In the wake of his departure, key members of his financial team, among others, began an unprecedented flight to cash, dropping between 70% and 90% of their holdings relatively quickly after filing 10b5-1 plans.

Aside the understandable 10b5-1 selling by Whitman, there was plenty of other trading plan activity at the Company, all of it meeting one or more of our criteria: Controller **Stephen Love** carried out his 10b5-1 plan sale in January of 2005. Due to inadequate disclosure as to the exact creation date of the plan (a problem with all Triad trading plan disclosures) it is impossible to determine if he began selling immediately after the plan's adoption. Very evident, however, is the fact that, since filing his trading plan, he has cleared out of 70% of his holdings. Treasurer, **James Bedenbaugh** acted similarly, **clearing out his entire actionable position (common shares plus vested options)** in March, after filing his trading plan.

Then there's the out-of-plan selling by COO **Michael Parsons** who had been selling at a 9,000 shares per month clip since filing his 10b5-1 over a year ago. On March 15th, however, the day Whitman left the Company and during the time others had accelerated their selling, Parsons sold 50,000 shares before settling back into his normal 9,000 share sale pattern on April 1st. Ditto for Chairman **James Sheldon** who, like Parsons, had been selling at a 10,000 share per month pace under a trading plan filed about a year ago. In December, however, he moved out-of-plan to sell 484, 000 additional shares. Although Parsons and Sheldon did not trim their holdings materially, they did put their "alternative defense" mechanism under Rule 10b5-1 at risk with these large out-of-plan sales, while selling off a significant number of shares.

Then we have Divisional President **Nicholas Marzocco** who apparently went out-of-plan when selling 86,382 of the 106,382 shares he sold between February and April of 2005. These sales far exceeded anything he had ever done in earlier years (which had averaged just 34,300 shares per year since 2002) but, more importantly, he trimmed his holdings by 69% with the moves.

Add to this the virtual lack of anything but minimalist disclosure of any details of 10b5-1 plans and you have a situation where insiders have violated nearly all the "do not do" rules of sound trading plan practice while significantly accelerating their sales compared to earlier periods.

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Appendix

Special Report: Analysis of Abusive 10b5-1 Trading Plan Behavior

Ticker	Company	Number of 3DA Criteria Met	10b5-1 Start Date	Active Insiders	Average Sales Per Quarter Before Plan	Average Sales Per Quarter Since Plan	Time From Plan Adoption To First Sales	Multiple Plans?	Out of Plan Selling	Disclosure	Hldgs Reduc.?
ADS	Alliance Data Systems	♦♦♦	Nov-03	7	N/A	88,447	Same Month	yes	no	Partial disclosure on 4s	no
ADSK	AutoDesk	♦♦	Jan-05	5	977,618	1,017,000	Wait 3 months	no	no	Full disclosure on 8-K and 4s	yes
AET	Aetna	♦♦	Aug-04	8	97,750	530,876	Wait 1 month	no	no	Partial disclosure on 4s	no
ASKJ	Ask Jeeves	♦♦♦	Aug-03	11	154,972	502,034	--	--	no	none	yes
AV	Avaya	♦	Feb-04	7	519,803	566,436	--	--	no	none	no
BOL	Bausch & Lomb	♦♦♦	May-04	4	26,336	95,182	Same Month	yes	no	Partial disclosure on 4s	no
CFC	Countrywide Financial	♦♦♦♦	Sep-03	5	1,106,800	1,340,750	Same Month	yes	yes	Partial disclosure on 4s	some
CIT	CIT Group		May-05	3			Wait 2 months	no	no	Full disclosure on 8-K and 4s	no
CMX	Caremark Rx	♦	Nov-04	3	567,149	430,097	Most start 6 months later	no	no	Partial disclosure on 4s	yes
FFIV	F5 Network	♦♦♦	Sep-02	7	38,689	294,469	--	--	no	none	yes
FIC	Fair Isaac	♦♦	Jan-04	3	159,400	164,000	--	--	no	none	some
HYSL	Hyperion Solutions	♦♦♦	Jan-03	5	3,166	178,900	--	--	no	none	yes
JBLU	JetBlue Airways	♦♦	Nov-02	6	N/A	188,753	--	--	yes	Plans named in 10-k, but no details	yes
LH	Lab Corp	♦♦♦	Feb-02	7	231,285	333,571	--	--	no	none	yes
LNCR	Lincare Holdings	♦♦	Nov-04	3	151,571	493,333	Same Month	no	no	Full disclosure on 8-K, none on 4s	no
LRCX	Lam Research	♦♦♦	Mar-04	3	581,750	699,184	--	--	no	none	yes
NTAP	Network Appliance	♦♦	Jul-04	3	1,127,000	1,215,700	Same Month	no	yes	Partial disclosure on 4s	no
NXTP	Nextel Partners		Aug-04	5	812,000	433,438	Start months later	no	no	Full disclosure on 8-K and 4s	no
OSIP	OSI Pharmaceuticals	♦♦♦	Jun-04	10	66,408	105,678	--	--	no	none	yes
PDX	Pediatrix Medical Grp	♦♦	Feb-04	4	39,889	113,056	Most start months later	no	no	Full disclosure on 8-K and 4s	yes
PNR	Pentair	♦♦	Sep-04	4	14,253	110,552	Wait 1 month	no	no	Plans named in 8-K, partial on 4s	no
RIG	Transocean	♦♦♦♦	Nov-04	6	18,018	173,718	Same Month	yes	no	Partial disclosure on 4s	yes
QCOM	Qualcomm	♦♦	Jan-03	10	2,617,333	1,554,666	--	--	no	none	some
RMBS	Rambus	♦♦	Nov-03	4	147,366	307,380	Most start 4 months later	no	yes	Participants named in proxy, partial on 4s	no
SLAB	Silicon Laboratories	♦♦	Nov-03	8	665,622	543,698	--	--	no	none	yes
SSI	Spectrasite	♦	Feb-04	5	N/A	216,971	Most start 4-6 months	no	no	Partial disclosure on 4s	some
STK	Storage Technology	♦♦♦	May-03	5	4,834	275,288	--	--	no	none	some
STN	Station Casinos	♦♦♦♦	Sep-03	6	800,585	1,721,364	Same Month	yes	no	Full disclosure on 8-K and 4s	yes
STX	Seagate Technology	♦♦	Dec-04	4	179,913	364,975	Same Month	yes	no	Partial disclosure on 4s	no
SY	Sybase	♦	Apr-04	7	272,597	235,492	--	--	no	Plans named in proxy; none on 4s	no
TRI	Triad Hospitals	♦♦♦♦	Jul-02	6	202,000	375,361	--	--	yes	none	yes
YUM	YUM Brands	♦♦	Apr-03	9	177,543	620,000	--	--	no	none	no