

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Rebecca Kelly Slaughter, Acting Chair
Noah Joshua Phillips
Rohit Chopra
Christine S. Wilson

File No. P114508

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated [Date], entitled Resolution Directing Use of Compulsory Process, a copy of which is enclosed, [Company] is ordered to file a Special Report with the Commission not later than May 31, 2021, containing the information specified herein.

The Special Report is required to be subscribed and sworn to by an official of [Company] who has prepared the response, and who has provided all other data and material in your possession.

The Special Report should restate each item of this Order with which the corresponding answer is identified. If any question cannot be answered fully, give such information as is available to you and explain how and why your answer is incomplete.

Please supply written responses to each of the following requests:

1. The subscriber to your report is to give his or her full name and business address and
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4. A. If [Company] is a subsidiary company, identify all other direct and indirect subsidiary companies of [Company] s ultimate parent company, and for each such subsidiary company

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individual packages containing:

- (a) less than 1 ounce of smokeless tobacco;
- (b) from 1 ounce to less than 2 ounces of smokeless tobacco;
- (c) from 2 ounces to less than 5 ounces of smokeless tobacco;
- (d) from 5 ounces to less than 10 ounces of smokeless tobacco;
- (e) from 10 ounces to less than 15 ounces of smokeless tobacco;
- (f) 15 ounces or more of smokeless tobacco.

This should include all smokeless tobacco product units distributed for free, whether through sampling, coupons for free product, buy two, get one free, or other promotional means.

or plug chewing tobacco, etc. The Commission has assigned a code letter for various product types. Enter the appropriate letter:

Looseleaf	A
Chewing Tobacco	B
Plug	C
Twist	D
Scotch Snuff	E
Dry Snuff	F
Moist Snuff	G
Snus	H
Dissolvable	I
Other	J

(7) FLAVOR: Description of product flavoring.

(8) VARIETY DESCRIPTION: Refers to any additional description as identified on the packaging or in advertising. The description typically includes characteristics such as grade of tobacco, and other advertised characteristics of the product.

The next 14 fields are used to record the net pounds sold, the net dollar value of those sales, the net number of units sold of each size category, the net number of units given away of each size category, and any starting or ending dates. Each unit sold should be reported in just one size category and should be reported in the smallest size category in which the unit could have been sold to consumers.

(9) POUNDS SOLD: Report one figure for total pounds of the brand variety sold in the United States during calendar year 2020, net of the number of pounds of this variety that were returned. Include smokeless tobacco given for free to retailers for subsequent sale to consumers. Please round to the nearest whole pound.

(10)

United States during calendar year 2020 in packages containing at least two ounces and less than five ounces of smokeless tobacco, net of the number of units that were returned. This includes units given for sale to retailers for subsequent sale to consumers.

(14) UNITS SOLD-D: Report the number of individual units of the brand variety sold in the United States during calendar year 2020 in packages containing at least five ounces and less than ten ounces of smokeless tobacco.

The next 34 fields are used to record expenditures on smokeless tobacco advertising, merchandising, or promotion in the United States for the specific categories requested by the FTC, as well as the total and sporting events totals. Please provide information for items 6-34 in thousands of dollars. Expenditures may be rounded to the nearest thousand dollars. For example, \$1,234,567 should be reported as either 1234.567 or 1235, not as 1234567.

The Commission is requesting that expenditures on smokeless tobacco advertising, merchandising, or promotion in the United States be reported only at the brand level, rather than at the variety level.

The Commission is also requesting that expenditures on smokeless tobacco advertising, merchandising, or promotion in the United States that are not attributable to or in connection
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expenditures might include, among others, Category A expenses advertising or promoting all
smokeless
specific brand of smokeless tobacco and Category W expenses.

To the extent practicable, third-party agency fees relating to smokeless tobacco advertising, merchandising, or promotion should be reported in the categories of advertising or

(10) CAT-E-EXP (Category-E Expenses): Direct-mail advertising but excluding, if practicable, those expenditures covered by Categories L through V or Category X, which should be reported in those categories.

(11) CAT-F-EXP (Category-F Expenses): Point-of-sale advertising, that is materials displayed or distributed at a retail location, but excluding, if practicable, those expenditures covered by Category C or Categories L through V, which should be reported in those categories.

(12) CAT-G-EXP (Category-G Expenses): Price discounts paid to smokeless tobacco product retailers in order to reduce the price of smokeless tobacco products to consumers, including off-invoice discounts, buy downs, voluntary price reductions, and trade programs, but excluding retail-value-added expenditures for promotions involving free smokeless tobacco products (*e.g.*, buy two, get one free) covered by Category U and expenditures involving coupons covered by Category T, which should be reported in those categories.

(13) CAT-H-EXP (Category-H Expenses): Price discounts paid to smokeless tobacco product wholesalers in order to reduce the price of smokeless tobacco products to consumers, including off-invoice discounts, buy downs, voluntary price reductions, and trade programs, but excluding retail-value-added expenditures for promotions involving free smokeless tobacco products (*e.g.*, buy two, get one free) covered by Category U and expenditures involving coupons covered by Category T, which should be reported in those categories.

(14) CAT-I-EXP (Category-I Expenses): Promotional allowances paid to smokeless tobacco product retailers in order to facilitate the sale or placement of any smokeless tobacco product, including payments for stocking, shelving, displaying, and merchandising brands, volume rebates, incentive payments, and the cost of smokeless tobacco product given for free to retailers for subsequent sale to consumers but excluding, if practicable, those expenditures covered by Categories L through V or Category X, which should be reported in those categories.

Company or its agents, but the cost of actual clinical testing or market research associated with such smokeless tobacco product distributions should not be reported. Coupons distributed for free smokeless tobacco product, with no purchase or payment required to obtain the coupons or smokeless tobacco product, should be reported in this category. When reporting expenses associated with such coupons for free smokeless tobacco product, the value reported should include: (a) the total redemption expense (including expenses for payments to retailers or vendors for processing) for such coupons in the calendar year, as determined under Generally Accepted Accounting Principles; and (b) all other costs associated with such coupons incurred in the calendar year, including but not limited to costs associated with advertising, promotion, design, printing, and distribution.

(18) CAT-M-EXP (Category-M Expenses): All costs of consumer engagement at smokeless tobacco product retail locations open to underage persons, including any third-party agency fees, but excluding the cost of coupons or samples distributed in the course of consumer-engagement activities. When such activities are combined with the distribution of coupons for the reduction of the retail cost of smokeless tobacco products, the expenditures associated with those coupons should be reported solely in Category T. When such activities are combined with the distribution of coupons for free smokeless tobacco products, with no purchase or payment required to obtain the coupons or smokeless tobacco products, the expenditures associated with those coupons should be reported solely in Category L.

(19) CAT-N-EXP (Category-N Expenses): All costs of distributing any items (other than smokeless tobacco products, items the sole function of which is to advertise or promote smokeless tobacco products, or written or electronic publications), whether distributed by sale, redemption of coupons, or otherwise, that do not bear the name, logo, or an image of any portion of the package of any brand or variety of smokeless tobacco product sold by the Company. The expenditures reported in this category should be the net cost to the Company, *i.e.*, payments received from consumers for such items should be deducted. When such activities are combined with smokeless tobacco product sampling, the expenditures connected therewith should be reported solely in Category L. When such activities are combined with the sale of smokeless tobacco products, such as when a non-smokeless tobacco product item is blister-packed to a package or packages of smokeless tobacco products, the expenditures connected therewith should be reported solely in Category V.

(20) CAT-O-EXP (Category-O Expenses): Public entertainment events bearing or otherwise displaying the name or logo or an image of any portion of the package of any of the Company's smokeless tobacco products or otherwise referring or relating to smokeless tobacco, that take place in an adult-only facility. Such events must include entertainment, as opposed to simply consumer engagement.¹⁰ This item includes all expenditures made by the Company in

adult-only facility

area (whether open-air or enclosed) where the operator ensures or has a reasonable basis to believe that no Underage Person is present. A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility, provided that the operator ensures to30 0 6r792 r

promoting or sponsoring such events. When such activities are combined with consumer engagement in adult-only facilities, the expenditures connected with consumer engagement should be reported solely in Category Q.

(21) CAT-P-EXP (Category-P Expenses): Public entertainment events (including, but not limited to, concerts and sporting events) bearing or otherwise displaying the name, logo, or an image of any portion of the package of any of the Company's smokeless tobacco products or otherwise referring or relating to smokeless tobacco, that do not take place in an adult-only facility. Such events must include entertainment, as opposed to simply consumer engagement. This item includes all expenditures made by the Company in promoting or sponsoring such events.

(22) CAT-Q-EXP (Category-Q Expenses): All costs of consumer engagement of smokeless tobacco users in adult-only facilities, including any third-party agency fees, but excluding the cost of coupons distributed. When such activities are combined with smokeless tobacco product sampling (including the distribution of coupons for free smokeless tobacco), the expenditures associated with the sampling should be reported solely in Category L. When such activities are

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(26) CAT-U-EXP (C) -U E R h -h -n

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(31) CAT-Z-EXP (Category-Z Expenses): All expenditures for social media marketing on web sites or other online services or communities, including, but not limited to, social networking sites, microblogging sites, content-sharing sites, and blogs.

(32) CAT-AA-EXP (Category-AA Expenses): Any advertising or promotional expenditures not covered by another reporting category. Specify the total amount on the written report and briefly describe the specific subject matter of each such expenditure.

(33) TOT-ADV-EXP (Total Reportable Expenditures): Refers to reportable expenditures for the brand as defined in the appropriate explanatory notes. The figure provided for total reportable expenditures should equal the sum of the expenses listed in Categories A through AA for the brand.

(34) SPORTS-EXP (Sports and Sporting Events): Report all advertising and promotional expenditures connected with or related to sports or sporting events, including but not limited to: (i) the sponsoring, advertising, or promotion of sports or sporting events, including any racing or automotive events, support of an individual, group, sports, or racing team, and purchase of or support for sports or racing equipment, uniforms, sports or racing facilities and or training facilities; (ii) 0 1foA4re W* n BT /TT0 1 Tf 12 0 0 12 72.024 487.99 Tm [(e)4 (xpe)4 (nd EMCsports, or r)5 (a)

