

NYSE Requires Notice of Material News Releases Starting at 7 a.m.

On Monday, September 28, 2015, certain amendments to the NYSE Listed Company ("Manual") will require listed companies to give the NYSE notice ten minutes before releasing "material news" during the hours of 7 a.m. through 4 p.m. on trading days. These amendments also advise companies releasing news at the end of the trading day to wait until the official publishing of their closing price or 15 minutes after the close of trading. Finally, these amendments clarify that material news should be released either in a Form 8-K filed with the SEC or in a press release issued to all major news wire services.

Notice of Material News Pre-Trading

Currently, Section 202.06 of the Manual requires listed companies to notify the NYSE at least ten minutes in advance of releasing material news if such release will take place shortly before the opening of trading on the NYSE or during NYSE market hours (the "Material News Policy"). The changes amend Section 202.06 to require companies to comply with the Material News Policy between 7:00 a.m. and 4:00 p.m. Eastern Time. In their proposal the NYSE explained that most companies release news related to corporate actions and other material events between 7:00 a.m. and 9:30 a.m. And though trading on the NYSE does not begin until 9:30 a.m., the NYSE believes that material news released between 7:00 a.m. and 9:30 a.m. has the potential to cause volatility in both price and volume during pre-market trading that occurs on other market centers as well as once trading opens on the NYSE.

When material news is released during (or shortly before) trading hours, the NYSE may impose a regulatory trading halt to allow the news to fully disseminate to all market participants. While trading on the NYSE does not begin until 9:30 a.m., trading (including trading in NYSE-listed securities) begins on NYSE Arca Equities, Inc., the Nasdaq Stock Market and other national securities exchanges at 4:00 a.m. The new rules will allow the NYSE to impose a regulatory halt in circumstances where (i) the listed company has informed NYSE staff that it intends to make a public announcement of material news and (ii) the listed company requests that trading in its listed securities be halted pending dissemination of the public announcement (a "Pre-Market Halt"). Because pre-market trading is lighter in volume and usually done by sophisticated professional investors, these rules effectively allow the company to tell the NYSE whether the company believes the Pre-Market Halt is warranted. When the NYSE implements a Pre-Market Halt to allow for the release of material news, other national securities exchanges that trade NYSE-listed securities also halt trading in such security until the NYSE lifts the halt. The Nasdaq Stock Market has adopted a comparable rule with respect to trading halts between the hours of 7:00 a.m. and 9:30 a.m.

Releasing Material News at the Close of Trading

Just as the release of material news immediately prior to the start of trading on the NYSE has the potential to cause significant volatility to the opening process, material news released immediately after 4:00 p.m. can interfere with the closing process. Although trading on the NYSE stops at 4:00 p.m., the order book for each listed security is manually closed by the security's Designated Market Maker ("DMM"), a process that can take several minutes before the closing auction is completed. Because trading continues after 4:00 p.m. on other exchanges, if a listed company releases material news immediately after 4:00 p.m. there can be significant price movement on other markets when compared to the last sale price on the NYSE. This may result in a DMM being required to execute trades at the NYSE closing price while the same security is simultaneously trading on other exchanges at a very different price. The amendments to the Manual add advisory language requesting that listed companies wait until the earlier of the publication of their security's official closing price on the NYSE or 15 minutes after the scheduled closing time on the NYSE before releasing material news at the close of trading.

Methods for Releasing Material News

The amendments also clarify how the NYSE wants companies to release the material news to the market by either (i) including the news in a Form 8-K or other SEC filing, or (ii) issuing the news in a press release to the major news wire services, including, at a minimum, Dow Jones & Company, Inc., Reuters Economic Services and Bloomberg Business News.

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