Information Memo

NYSE Regulation, Inc

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NYSE Regulation

Number 12-8
March 14, 2012

ATTENTION: CHIEF EXECUTIVE OFFICER, MANAGING PARTNER, CHIEF OPERATIONS OFFICER, OPERATIONS PARTNER AND LEGAL AND COMPLIANCE DEPARTMENTS

TO: ALL MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: QUARTERLY EXPIRATION DAY-March 16, 2012

- **Purpose**

Friday, March 16, 2012, will be a quarterly Expiration Day for stock and index options and futures products whose settlement pricing is based upon New York Stock Exchange LLC ("NYSE") and NYSE Amex Equities LLC ("NYSE Amex Equities") (collectively, the "Exchanges") opening or closing prices on that day. This Information Memorandum reminds members and member organizations of certain NYSE and NYSE Amex Equities rules and policies regarding opening imbalance publications, entry and cancellation of market-on-close/limit-on-close ("MOC/LOC") and closing offset ("CO") orders, publication of on-the-close imbalances, and printing the closing transaction.

II. Expiration Day Opening Imbalance Publication

Members and member organizations are reminded that the regular pre-opening procedures outlined in Rules 15 (Pre-Opening Indications) and 123D (Openings and Halts in Trading) apply on the March 16 Expiration Day. Accordingly, Designated Market Makers ("DMMs") should publish indications as promptly as practicable and are reminded of their additional obligations under Rule 123D to publish one or more indications, under the supervision of a Floor Official, in situations where the opening price would be affected by an imbalance of market and limit buy and sell orders in a security.

In the event that one or both of the Exchanges invokes its exemptive powers under Rule 48 (Exemptive Relief – Extreme Market Volatility Condition), the terms of that rule would govern the obligation to publish pre-opening indications.

III. Rules and Policies Relating to the Close

A. MOC/LOC and CO Order Entry and Cancellation

Members and member organizations are reminded that the provisions of Rule 123C (Closing Procedures) apply to the Close on the March 16 Expiration Day. While the Exchanges expect systems to operate normally on March 16, in the unlikely event of a systems interruption leading into or at the Close, the Closing Procedures set out in Rule 123C would operate as if the Exchanges had declared a regulatory halt in one or more securities.

In the event that one or both of the Exchanges invoke its exemptive powers under Rule 123C(9) (Closing Procedures - Extreme Order Imbalances at or Near the Close), the terms of that rule would govern the handling of orders at the Close. See Section III. D, below.

In connection with the entry of MOC/LOC and CO orders, members should pay particular attention to the following:

- A "published imbalance" is an imbalance that has been disseminated to the Tape. An imbalance announced verbally or physically posted at the panel is not considered to be a published imbalance. See Section III. B, below. The Exchanges' Order Imbalance Information product, a data feed of real-time order imbalances that accumulate prior to the opening and the closing of trading on the Exchanges, does not constitute a "published imbalance."

- Brokers and traders are reminded that, while they should enter orders as early in the day as possible, all MOC/LOC orders (unless entered to offset a published imbalance) must be entered electronically by 3:45 p.m. Entering MOC/LOC orders early provides DMMs with the opportunity to more quickly identify and disseminate potential order imbalances that might exist at the Close. This, in turn, enables brokers and traders to more effectively identify potential offsetting customer interest that could mitigate any imbalance. MOC/LOC and CO orders entered prior to 3:45 p.m. may be canceled or reduced prior to that time for any reason.

- After 3:45 p.m. Exchange systems will accept only MOC/LOC orders that offset a published imbalance and CO orders may be entered in any amount on either side of the market.

- Between 3:45 p.m. and 3:58 p.m., MOC/LOC and CO orders may be canceled or reduced in size only to correct a legitimate error.[1] This also applies to instances where cancel/replace functionality is used.

  - FINRA will continue to closely monitor the cancellation of MOC/LOC and CO orders.

  - After 3:58 p.m., MOC/LOC and CO orders may not be cancelled or reduced in size for any reason except in accordance with Rule 123C(9). See Section IV(D), below.

[1] A "legitimate error" is an error in any term of a MOC/LOC order, such as price, number of shares, buy/sell, or identification of the security. See Rule 123C(1)(c).

- In the event of a trading halt effective at 3:45 p.m. or later, MOC/LOC orders may be entered only to offset a published imbalance. CO orders, however, may be entered in any amount on either side of the market. See Rule 123C(2)(c).

B. Imbalance Publications[2]

Rule 123C(5) provides for the publication of order imbalances as described below. In addition, members and member organizations may refer to the attached quick-reference page for a summary of the times and requirements for imbalance publications. DMMs are reminded that erroneous imbalance publications must be corrected as soon as practicable.

- Informational Imbalance Publications between 3:00 p.m. and 3:45 p.m.

Between 3:00 p.m. and 3:45 p.m., DMMs are encouraged to issue Informational Imbalance Publications of any size if they believe that there could be significant price dislocation at the Close. These publications are informational only and do not limit MOC/LOC or CO order entry or cancellation before 3:45 p.m. DMMs who wish to issue an Informational Imbalance Publication must obtain prior approval from a Floor Official or qualified Exchange employee (see Rule 46.10) prior to issuance. Floor Official approvals to issue Informational Imbalance Publications should be recorded in the Floor Official Request Tracking Engine ("FORTÉ"). Members should state the proposed imbalance information and note any other relevant information (e.g., average daily trading volume ("ADTV"), size, or degree of impact) in connection with the request.

- Mandatory MOC/LOC Imbalance Publications at 3:45 p.m.

As soon as practicable after 3:45 p.m., any MOC/LOC imbalance of 50,000 shares or more for NYSE-listed securities, and 25,000 shares or more for NYSE Amex Equities-listed securities, will be published by the Exchange. Other significant imbalances of lesser size (i.e., less than 50,000/25,000 shares but significant relative to the ADTV of a particular security) may be published by the DMM with Floor Official or qualified Exchange employee approval. As with Informational Imbalance Publications, Floor Official approvals to issue certain Mandatory MOC/LOC Imbalance Publications should be recorded in FORTÉ and members should state the proposed imbalance information and note any other relevant information (e.g., ADTV, size, or degree of impact) in connection with the request.

In addition, any Informational Imbalance Publication issued prior to 3:45 p.m. must be updated. An imbalance of 50,000 shares (NYSE)/25,000 shares (NYSE Amex Equities), or more will be published. If there is an imbalance of any lesser size that is significant relative to the ADTV of the stock, it may be published by the DMM with Floor Official or qualified Exchange employee approval. If there is no such imbalance, a "no imbalance" indication must be issued by the DMM.

- Mandatory MOC/LOC Imbalance Publications after a Trading Halt

If a trading halt is in effect at 3:45 p.m. but is lifted prior to the Close, any MOC/LOC imbalance of 50,000 shares (NYSE)/25,000 shares (NYSE Amex Equities), or more will be published, and any imbalance of lesser size if significant relative to the ADTV may be published by the DMM as soon as possible after trading reopens, subject to prior Floor Official or qualified Exchange

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[2] Imbalance publications include both MOC and marketable LOC orders (based on the last sale price at the time the publication is made). See Rule 123C(1)(b) & (d), defining "Informational Imbalance Publications" and "Mandatory MOC/LOC Imbalance Publications." For more information on how imbalance publications are calculated, see Rule 123C(4).

employee approval. If the trading halt is not lifted before the Close, there will not be any imbalance publications.

- Exchange Publication of Order Imbalance Information

In addition to the Informational Imbalance and Mandatory MOC/LOC Imbalance Publications described above, the Exchanges also make available real-time Order Imbalance Information prior to the Close in accordance with Rule 123C(6). These publications take place approximately every five (5) seconds between 3:45 p.m. and 4:00 p.m. The Order Imbalance Information publications use a reference price in order to indicate how many shares would be needed to close the security at that price, including MOC, marketable LOC and CO orders. (For more information on how the reference price is determined, see Rule 123C(6)(a)(iii)). Beginning at 3:55 p.m., the Order Imbalance Information publications also include stop orders, d-Quotes and all other e-Quotes containing pegging instructions eligible to participate in the closing transaction.[3]

As noted above, Order Imbalance Information publications are solely for informational purposes and off-setting MOC/LOC interest must not be submitted in response to Order Imbalance Information publications. Off-setting MOC/LOC interest may be submitted only as described in this memo in response to a Mandatory MOC/LOC Imbalance Publication issued at 3:45 p.m. or after a trading halt in accordance with Rule 123C(2).

- Printing the Closing Transaction

  a. Rules 116.40 and 123C(8)

DMMs are reminded that the closing transaction must be printed consistent with Rules 116.40 and 123C(8) and must accurately reflect both the closing price and closing volume when printing the closing transaction.[4]

- Verbal Interest and e-Quotes at the Close

DMMs should take all interest, including verbal, e-Quoted and Display Book interest, into account when formulating the Close. Depending on whether it is marketable or not, verbal interest may be handled differently than e-Quoted interest at the Close. Marketable verbal interest is included with all market and MOC interest at the Close, while limited verbal interest and e-Quotes are on parity with limit orders. DMMs are reminded that verbal interest from a Floor broker should be handled one of two ways: entered into GTM by NYSE Floor Operations staff or into the crowd field of the Closing template by the DMM.

Pursuant to Rule 342, members and member organizations must ensure that they have adequate written policies and procedures in place to detect, deter and prevent conduct inconsistent with the guidance set forth above. Any member who believes that the above procedures have not been adhered to should report their concern to the FINRA On-Floor Surveillance Unit.

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[3] On a day that trading on the Exchange is scheduled to close earlier than 4:00 p.m., the Exchange will disseminate Order Imbalance Information every five (5) seconds starting at 10 minutes prior to the Close. See Rule 123C(6)(a)(v).

[4] For more information on the execution of orders at the Close, see Rule 123C(7). Members and member organizations are reminded that, when arranging the Close, they may not use the Display Book system in an inappropriate manner designed to discover information about unelected stop orders.

- Orders to Offset MOC/LOC Imbalances at the Close to Mitigate Price Disparity

Rule 902 (Off Hours Trading Orders) provides for entry of orders after the Close. Rule 902(a)(ii)(B) permits DMMs to include in the calculation of the Close legitimate market interest that has agreed to offset all or part of any MOC imbalance that existed prior to the Close at 4:00 p.m. The DMM's use of this offsetting interest to minimize significant price dislocation on the Close will result in a closing-price coupled order between the DMM and member, member organization or customer. If the member, member organization or customer agrees, the DMM may include this interest in offsetting an imbalance when setting the closing price and increase DMM participation in the closing print to the extent of the new contra interest. In this way the DMM will liquidate or cover the related dealer position, and the member, member organization or customer will acquire the position. Such closing-price coupled orders are executed at the Ramp.

It is important to note that Rule 902 may not be relied on for the entry of an order after the Close when there is no MOC/LOC imbalance or when the imbalance would not result in volatility and/or price dislocation. In addition, it cannot be used if the Close has already been printed.

- Extreme Order Imbalances at or Near the Close

In order to avoid significant dislocation in the closing price that may result from an order entered or represented at or near the Close, Rule 123C(9) permits the Exchanges, on a security-by-security basis, to temporarily suspend the hours of operation under Rule 52 so that offsetting interest may be solicited from both on-Floor and off-Floor participants and entered to reduce the size of the imbalance. Extensions of trading under Rule 123C(9) may be designated by the Exchange for a specific time period up to 30 minutes after the scheduled close. Off-setting interest is solicited using Exchange Trader Updates as well as messages sent directly to Floor broker hand-held devices. These Exchange-issued solicitation requests include information regarding security symbol, the imbalance amount and side, the last sale price, and a designated order acceptance cutoff time (generally five minutes from the issuance of the solicitation request). Offsetting interest submitted in response to an Exchange-issued solicitation request must be a limit order priced no worse than the last sale, irrevocable and entered no later than the order acceptance cut-off time indicated in the solicitation request. Exchange systems will accept interest entered electronically after 4:00 p.m. only if Rule 123C9(a)(1) is invoked.

Exchange systems will not verify side or price, and will not block post-4:00 p.m. cancellation of interest submitted under this rule. Therefore, member and member organizations entering such interest are responsible for ensuring compliance with the rule, such that the only interest that may be entered in response to such a solicitation request is: (i) offsetting; (ii) a limit order priced no worse than the last sale price; and (iii) not cancelled.

Rule 123C(9) also permits temporary suspension of the prohibition on the cancellation or reduction of a MOC/LOC order after 3:58 p.m. where there is a legitimate error in such an order *and* the execution of the order would cause significant price dislocation at the Close.

Only the DMM assigned to a particular affected security may request relief under Rule 123C(9). A request for relief under Rule 123C(9) must be approved and supervised by an Executive Floor Governor or qualified NYSE Euronext employee and supervised by a qualified Exchange officer, as defined in Rule 48(d). All Rule 123C(9)-related approvals should be recorded in FORTÉ.

Failure to comply with these requirements for entering interest in response to a solicitation request is a violation of Exchange rules and may result in disciplinary action. See Information Memoranda 09-20 (May 5, 2009), http://www.nyse.com/nysenotices/nyse/information-memos/pdf?memo_id=09-20 and 10-52 (December 22, 2010), http://www.nyse.com/nysenotices/nyse/information-memos/detail?memo_id=10-52.

IV. Adequacy of Operations and Supervisory Staff

All members and member organizations, including DMMs, should ensure that both operational and supervisory staffing on and around the March 16 Expiration Day will be sufficient to monitor and process all orders, regardless of the form in which they are received, as well as to handle the anticipated increased workload. All members and member organizations should also review their systems to ensure that they have adequate capacity to handle the expected increase in volume. For example, DMM firms should review their DMM Unit algorithm to ensure that they meet their obligations to maintain a fair and orderly market. DMMs are reminded to seek the advice of a Floor Official regarding any unusual situations as quickly as possible.

V. Supervision

- Review of Policies and Procedures

In view of increased automated order delivery, e-Quoting and automatic execution, members and member organizations should carefully review their procedures as well as their supervisory systems for handling orders in connection with the March 16 Expiration Day. Specifically, members and member organizations should review their practices for handling orders at or near the Close. Reviews should include both manual orders and those handled systemically, such as orders that are handled by a computer algorithm. In addition, members and member organizations should take all necessary steps to ensure that the relevant trading and back-office staffs are familiar with firm procedures for handling orders at or near the Close. Members and member organizations should also be mindful of the guidance issued in Information Memo 09-22 (May 28, 2009), http://www.nyse.com/nysenotices/nyse/information-memos/pdf?memo_id=09-22 regarding procedures for escalating and addressing inquiries arising from real-time regulatory or trading issues.

In addition, members and member organizations are reminded of their obligation to have adequate systems and controls relating to the use of firm systems by correspondents or others. Please consult Information Memo 11-13 (May 16, 2011), http://www.nyse.com/nysenotices/nyse/information-memos/pdf?memo_id=11-13 for more information.

- Adequacy of Compliance Program

Members and member organizations are also reminded to ensure that they have a robust compliance program that includes adequate written policies, procedures and supervisory controls to monitor for compliance with Rule 123C and the guidance contained in this Information Memo. Policies and procedures must be adequate to ensure that all procedures related to MOC/LOC orders are appropriately followed, and to detect and deter any actions that may violate NYSE, NYSE Amex and/or SEC rules.

C. Due Diligence Requirements

Consistent with the requirements of Rule 405, before any at-the-close order is transmitted to the Floor the member or member organization accepting the order must exercise due diligence to learn the essential facts relative to the order, including the purpose and propriety of the at-the-close instruction. In addition, an imbalance of orders at or near the Close, caused in part by the entry of such orders, could lead to trading being halted in the security and such orders not receiving an execution.

D. Supervision to Prevent Improperly Affecting the Close

Members and member organizations must also ensure that their activity does not have the effect of artificially impacting the closing price. Firms should review procedures utilized in connection with orders to be executed at or near the Close with their traders and other order-entry personnel. Firms should also review systemic order-entry functions (e.g., algorithms or "smart servers") for compliance with the NYSE and NYSE Amex Equities rules and the provisions of this Information Memorandum. Firms should also review the provisions of Information Memo 95-28 (July 10, 1995), http://www.nyse.com/nysenotices/nyse/information-memos/pdf?memo_id=95-28 which discusses trading near the Close and activity that would constitute violations of NYSE and NYSE Amex Equities rules, as well as federal securities laws.

In that connection, members and member organizations are reminded that, where a firm has committed to purchase from (sell to) a customer at a price that is derived from the closing price (MOC orders) while also reserving a significant position of its hedging or covering transaction to be executed at or near the Close, they must operate with substantial care. If the transaction is completed in a manner that does not effectively place the firm at market risk or if the transaction does not provide an opportunity for possible contra side interest to develop and/or react to the activity, it would raise manipulative concerns and would operate as conduct inconsistent with just and equitable principles of trade.

E. Compliance with Federal Securities Laws and Rules

In addition to complying with NYSE and NYSE Amex Equities rules and policies, members and member organizations should review all other applicable federal securities laws and regulations, including Section 9(a)(2) of the Securities Exchange Act, Regulation SHO and Rule 10b-5, as well as the margin and capital rules. Firms must ensure that they have written policies, procedures, and supervisory controls reasonably designed to detect and deter potentially violative conduct.

VI. Staff Contacts

Regulatory questions relating to this Information Memo should be addressed to:

- Patricia Bergholc, Director, FINRA Market Regulation, 917.281.3054; or
- Michael Fryer, Director, FINRA Market Regulation, 917.281.3071; or
- John Saxton, Director, FINRA Market Regulation, 917.281.3114.

Questions regarding the NYSE and NYSE Amex Equities Rules cited in this notice should be addressed to:

- Clare Saperstein, Vice President, NYSE Regulation, Inc., 212.656.2355; or
- David De Gregorio, Chief Counsel, NYSE Regulation, Inc., 212.656.4166.

Operations questions concerning this memorandum may be addressed to the following:

- Paul Bauccio, Senior Vice President, Operations, 212.656.2929; or
- Dennis Pallotta, Director, Operations, 212.656.5236; or
- Sonia Rosa, Managing Director, Operations, 212.656.2899.

Questions may also be directed to the FINRA On-Floor Surveillance Unit via the White Phone or in person at the Unit's Booth on the Floor.

NYSE Regulation, Inc

Attachments

ATTENTION: CHIEF EXECUTIVE OFFICER, MANAGING PARTNER, CHIEF OPERATIONS OFFICER, OPERATIONS PARTNER AND LEGAL AND COMPLIANCE DEPARTMENTS

TO: ALL MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: **QUARTERLY EXPIRATION DAY – March 16, 2012**

I. Purpose

Friday, March 16, 2012, will be a quarterly Expiration Day for stock and index options and futures products whose settlement pricing is based upon New York Stock Exchange LLC ("NYSE") and NYSE Amex Equities LLC ("NYSE Amex Equities") (collectively, the "Exchanges") opening or closing prices on that day. This Information Memorandum reminds members and member organizations of certain NYSE and NYSE Amex Equities rules and policies regarding opening imbalance publications, entry and cancellation of market-on-close/limit-on-close ("MOC/LOC") and closing offset ("CO") orders, publication of on-the-close imbalances, and printing the closing transaction.

II. Expiration Day Opening Imbalance Publication

Members and member organizations are reminded that the regular pre-opening procedures outlined in Rules 15 (Pre-Opening Indications) and 123D (Openings and Halts in Trading) apply on the March 16 Expiration Day. Accordingly, Designated Market Makers ("DMMs") should publish indications as promptly as practicable and are reminded of their additional obligations under Rule 123D to publish one or more indications, under the supervision of a Floor Official, in situations where the opening price would be affected by an imbalance of market and limit buy and sell orders in a security.

In the event that one or both of the Exchanges invokes its exemptive powers under Rule 48 (Exemptive Relief – Extreme Market Volatility Condition), the terms of that rule would govern the obligation to publish pre-opening indications.

III. Rules and Policies Relating to the Close

A. MOC/LOC and CO Order Entry and Cancellation

Members and member organizations are reminded that the provisions of Rule 123C (Closing Procedures) apply to the Close on the March 16 Expiration Day. While the Exchanges expect systems to operate normally on March 16, in the unlikely event of a systems interruption leading into or at the Close, the Closing Procedures set out in Rule 123C would operate as if the Exchanges had declared a regulatory halt in one or more securities.

In the event that one or both of the Exchanges invoke its exemptive powers under Rule 123C(9) (Closing Procedures - Extreme Order Imbalances at or Near the Close), the terms of that rule would govern the handling of orders at the Close. See Section III. D, below.

In connection with the entry of MOC/LOC and CO orders, members should pay particular attention to the following:

- A "published imbalance" is an imbalance that has been disseminated to the Tape. An imbalance announced verbally or physically posted at the panel is not considered to be a published imbalance. See Section III. B, below. The Exchanges' Order Imbalance Information product, a data feed of real-time order imbalances that accumulate prior to the opening and the closing of trading on the Exchanges, does not constitute a "published imbalance."

- Brokers and traders are reminded that, while they should enter orders as early in the day as possible, all MOC/LOC orders (unless entered to offset a published imbalance) must be entered electronically by 3:45 p.m. Entering MOC/LOC orders early provides DMMs with the opportunity to more quickly identify and disseminate potential order imbalances that might exist at the Close. This, in turn, enables brokers and traders to more effectively identify potential offsetting customer interest that could mitigate any imbalance. MOC/LOC and CO orders entered prior to 3:45 p.m. may be canceled or reduced prior to that time for any reason.

- After 3:45 p.m. Exchange systems will accept only MOC/LOC orders that offset a published imbalance and CO orders may be entered in any amount on either side of the market.

- Between 3:45 p.m. and 3:58 p.m., MOC/LOC and CO orders may be canceled or reduced in size only to correct a legitimate error.[1] This also applies to instances where cancel/replace functionality is used.

- FINRA will continue to closely monitor the cancellation of MOC/LOC and CO orders.

- After 3:58 p.m., MOC/LOC and CO orders may not be cancelled or reduced in size for any reason except in accordance with Rule 123C(9). See Section IV(D), below.

- In the event of a trading halt effective at 3:45 p.m. or later, MOC/LOC orders may be entered only to offset a published imbalance. CO orders, however, may be entered in any amount on either side of the market. See Rule 123C(2)(c).

B. Imbalance Publications[2]

Rule 123C(5) provides for the publication of order imbalances as described below. In addition, members and member organizations may refer to the attached quick-reference page for a summary of the times and requirements for imbalance publications. DMMs are reminded that erroneous imbalance publications must be corrected as soon as practicable.

1. Informational Imbalance Publications between 3:00 p.m. and 3:45 p.m.

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[1] A "legitimate error" is an error in any term of a MOC/LOC order, such as price, number of shares, buy/sell, or identification of the security. See Rule 123C(1)(c).

[2] Imbalance publications include both MOC and marketable LOC orders (based on the last sale price at the time the publication is made). See Rule 123C(1)(b) & (d), defining "Informational Imbalance Publications" and "Mandatory MOC/LOC Imbalance Publications." For more information on how imbalance publications are calculated, see Rule 123C(4).

Between 3:00 p.m. and 3:45 p.m., DMMs are encouraged to issue Informational Imbalance Publications of any size if they believe that there could be significant price dislocation at the Close. These publications are informational only and do not limit MOC/LOC or CO order entry or cancellation before 3:45 p.m. DMMs who wish to issue an Informational Imbalance Publication must obtain prior approval from a Floor Official or qualified Exchange employee (see Rule 46.10) prior to issuance. Floor Official approvals to issue Informational Imbalance Publications should be recorded in the Floor Official Request Tracking Engine ("FORTÉ"). Members should state the proposed imbalance information and note any other relevant information (e.g., average daily trading volume ("ADTV"), size, or degree of impact) in connection with the request.

2. Mandatory MOC/LOC Imbalance Publications at 3:45 p.m.

As soon as practicable after 3:45 p.m., any MOC/LOC imbalance of 50,000 shares or more for NYSE-listed securities, and 25,000 shares or more for NYSE Amex Equities-listed securities, will be published by the Exchange. Other significant imbalances of lesser size (i.e., less than 50,000/25,000 shares but significant relative to the ADTV of a particular security) may be published by the DMM with Floor Official or qualified Exchange employee approval. As with Informational Imbalance Publications, Floor Official approvals to issue certain Mandatory MOC/LOC Imbalance Publications should be recorded in FORTÉ and members should state the proposed imbalance information and note any other relevant information (e.g., ADTV, size, or degree of impact) in connection with the request.

In addition, any Informational Imbalance Publication issued prior to 3:45 p.m. must be updated. An imbalance of 50,000 shares (NYSE)/25,000 shares (NYSE Amex Equities), or more will be published. If there is an imbalance of any lesser size that is significant relative to the ADTV of the stock, it may be published by the DMM with Floor Official or qualified Exchange employee approval. If there is no such imbalance, a "no imbalance" indication must be issued by the DMM.

3. Mandatory MOC/LOC Imbalance Publications after a Trading Halt

If a trading halt is in effect at 3:45 p.m. but is lifted prior to the Close, any MOC/LOC imbalance of 50,000 shares (NYSE)/25,000 shares (NYSE Amex Equities), or more will be published, and any imbalance of lesser size if significant relative to the ADTV may be published by the DMM as soon as possible after trading reopens, subject to prior Floor Official or qualified Exchange employee approval. If the trading halt is not lifted before the Close, there will not be any imbalance publications.

4. Exchange Publication of Order Imbalance Information

In addition to the Informational Imbalance and Mandatory MOC/LOC Imbalance Publications described above, the Exchanges also make available real-time Order Imbalance Information prior to the Close in accordance with Rule 123C(6). These publications take place approximately every five (5) seconds between 3:45 p.m. and 4:00 p.m. The Order Imbalance Information publications use a reference price in order to indicate how many shares would be needed to close the security at that price, including MOC, marketable LOC and CO orders. (For more information on how the reference price is determined, see Rule 123C(6)(a)(iii)). Beginning at 3:55 p.m., the Order Imbalance Information publications also include stop orders, d-Quotes

and all other e-Quotes containing pegging instructions eligible to participate in the closing transaction.[3]

As noted above, Order Imbalance Information publications are solely for informational purposes and off-setting MOC/LOC interest must not be submitted in response to Order Imbalance Information publications. Off-setting MOC/LOC interest may be submitted only as described in this memo in response to a Mandatory MOC/LOC Imbalance Publication issued at 3:45 p.m. or after a trading halt in accordance with Rule 123C(2).

C. Printing the Closing Transaction

1. Rules 116.40 and 123C(8)

DMMs are reminded that the closing transaction must be printed consistent with Rules 116.40 and 123C(8) and must accurately reflect both the closing price and closing volume when printing the closing transaction.[4]

2. Verbal Interest and e-Quotes at the Close

DMMs should take all interest, including verbal, e-Quoted and Display Book interest, into account when formulating the Close. Depending on whether it is marketable or not, verbal interest may be handled differently than e-Quoted interest at the Close. Marketable verbal interest is included with all market and MOC interest at the Close, while limited verbal interest and e-Quotes are on parity with limit orders. DMMs are reminded that verbal interest from a Floor broker should be handled one of two ways: entered into GTM by NYSE Floor Operations staff or into the crowd field of the Closing template by the DMM.

Pursuant to Rule 342, members and member organizations must ensure that they have adequate written policies and procedures in place to detect, deter and prevent conduct inconsistent with the guidance set forth above. Any member who believes that the above procedures have not been adhered to should report their concern to the FINRA On-Floor Surveillance Unit.

3. Orders to Offset MOC/LOC Imbalances at the Close to Mitigate Price Disparity

Rule 902 (Off Hours Trading Orders) provides for entry of orders after the Close. Rule 902(a)(ii)(B) permits DMMs to include in the calculation of the Close legitimate market interest that has agreed to offset all or part of any MOC imbalance that existed prior to the Close at 4:00 p.m. The DMM's use of this offsetting interest to minimize significant price dislocation on the Close will result in a closing-price coupled order between the DMM and member, member organization or customer. If the member, member organization or customer agrees, the DMM may include this interest in offsetting an imbalance when setting the closing price and increase DMM participation in the closing print to the extent of the new contra interest. In this way the

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[3] On a day that trading on the Exchange is scheduled to close earlier than 4:00 p.m., the Exchange will disseminate Order Imbalance Information every five (5) seconds starting at 10 minutes prior to the Close. See Rule 123C(6)(a)(v).

[4] For more information on the execution of orders at the Close, see Rule 123C(7). Members and member organizations are reminded that, when arranging the Close, they may not use the Display Book system in an inappropriate manner designed to discover information about unelected stop orders.

DMM will liquidate or cover the related dealer position, and the member, member organization or customer will acquire the position. Such closing-price coupled orders are executed at the Ramp.

It is important to note that Rule 902 may not be relied on for the entry of an order after the Close when there is no MOC/LOC imbalance or when the imbalance would not result in volatility and/or price dislocation. In addition, it cannot be used if the Close has already been printed.

D. Extreme Order Imbalances at or Near the Close

In order to avoid significant dislocation in the closing price that may result from an order entered or represented at or near the Close, Rule 123C(9) permits the Exchanges, on a security-by-security basis, to temporarily suspend the hours of operation under Rule 52 so that offsetting interest may be solicited from both on-Floor and off-Floor participants and entered to reduce the size of the imbalance. Extensions of trading under Rule 123C(9) may be designated by the Exchange for a specific time period up to 30 minutes after the scheduled close. Off-setting interest is solicited using Exchange Trader Updates as well as messages sent directly to Floor broker hand-held devices. These Exchange-issued solicitation requests include information regarding security symbol, the imbalance amount and side, the last sale price, and a designated order acceptance cutoff time (generally five minutes from the issuance of the solicitation request). Offsetting interest submitted in response to an Exchange-issued solicitation request must be a limit order priced no worse than the last sale, irrevocable and entered no later than the order acceptance cut-off time indicated in the solicitation request. Exchange systems will accept interest entered electronically after 4:00 p.m. only if Rule 123C9(a)(1) is invoked.

Exchange systems will not verify side or price, and will not block post-4:00 p.m. cancellation of interest submitted under this rule. Therefore, member and member organizations entering such interest are responsible for ensuring compliance with the rule, such that the only interest that may be entered in response to such a solicitation request is: (i) offsetting; (ii) a limit order priced no worse than the last sale price; and (iii) not cancelled.

Rule 123C(9) also permits temporary suspension of the prohibition on the cancellation or reduction of a MOC/LOC order after 3:58 p.m. where there is a legitimate error in such an order *and* the execution of the order would cause significant price dislocation at the Close.

Only the DMM assigned to a particular affected security may request relief under Rule 123C(9). A request for relief under Rule 123C(9) must be approved and supervised by an Executive Floor Governor or qualified NYSE Euronext employee and supervised by a qualified Exchange officer, as defined in Rule 48(d). All Rule 123C(9)-related approvals should be recorded in FORTÉ.

Failure to comply with these requirements for entering interest in response to a solicitation request is a violation of Exchange rules and may result in disciplinary action. See Information Memoranda 09-20 (May 5, 2009) and 10-52 (December 22, 2010).

IV. Adequacy of Operations and Supervisory Staff

All members and member organizations, including DMMs, should ensure that both operational and supervisory staffing on and around the March 16 Expiration Day will be sufficient to monitor and process all orders, regardless of the form in which they are received, as well as to handle the anticipated increased workload. All members and member organizations should also review their systems to ensure that they have adequate capacity to handle the expected increase in

volume. For example, DMM firms should review their DMM Unit algorithm to ensure that they meet their obligations to maintain a fair and orderly market. DMMs are reminded to seek the advice of a Floor Official regarding any unusual situations as quickly as possible.

V. Supervision

A. Review of Policies and Procedures

In view of increased automated order delivery, e-Quoting and automatic execution, members and member organizations should carefully review their procedures as well as their supervisory systems for handling orders in connection with the March 16 Expiration Day. Specifically, members and member organizations should review their practices for handling orders at or near the Close. Reviews should include both manual orders and those handled systemically, such as orders that are handled by a computer algorithm. In addition, members and member organizations should take all necessary steps to ensure that the relevant trading and back-office staffs are familiar with firm procedures for handling orders at or near the Close. Members and member organizations should also be mindful of the guidance issued in Information Memo 09-22 (May 28, 2009) (attached) regarding procedures for escalating and addressing inquiries arising from real-time regulatory or trading issues.

In addition, members and member organizations are reminded of their obligation to have adequate systems and controls relating to the use of firm systems by correspondents or others. Please consult Information Memo 11-13 (May 16, 2011) (attached) for more information..

B. Adequacy of Compliance Program

Members and member organizations are also reminded to ensure that they have a robust compliance program that includes adequate written policies, procedures and supervisory controls to monitor for compliance with Rule 123C and the guidance contained in this Information Memo. Policies and procedures must be adequate to ensure that all procedures related to MOC/LOC orders are appropriately followed, and to detect and deter any actions that may violate NYSE, NYSE Amex and/or SEC rules.

C. Due Diligence Requirements

Consistent with the requirements of Rule 405, before any at-the-close order is transmitted to the Floor the member or member organization accepting the order must exercise due diligence to learn the essential facts relative to the order, including the purpose and propriety of the at-the-close instruction. In addition, an imbalance of orders at or near the Close, caused in part by the entry of such orders, could lead to trading being halted in the security and such orders not receiving an execution.

D. Supervision to Prevent Improperly Affecting the Close

Members and member organizations must also ensure that their activity does not have the effect of artificially impacting the closing price. Firms should review procedures utilized in connection with orders to be executed at or near the Close with their traders and other order-entry personnel. Firms should also review systemic order-entry functions (e.g., algorithms or "smart servers") for compliance with the NYSE and NYSE Amex Equities rules and the provisions of this Information Memorandum. Firms should also review the provisions of Information Memo 95-28 (July 10, 1995) (attached), which discusses trading near the Close and activity that would constitute violations of NYSE and NYSE Amex Equities rules, as well as federal securities laws.

In that connection, members and member organizations are reminded that, where a firm has committed to purchase from (sell to) a customer at a price that is derived from the closing price (MOC orders) while also reserving a significant position of its hedging or covering transaction to be executed at or near the Close, they must operate with substantial care. If the transaction is completed in a manner that does not effectively place the firm at market risk or if the transaction does not provide an opportunity for possible contra side interest to develop and/or react to the activity, it would raise manipulative concerns and would operate as conduct inconsistent with just and equitable principles of trade.

E. Compliance with Federal Securities Laws and Rules

In addition to complying with NYSE and NYSE Amex Equities rules and policies, members and member organizations should review all other applicable federal securities laws and regulations, including Section 9(a)(2) of the Securities Exchange Act, Regulation SHO and Rule 10b-5, as well as the margin and capital rules. Firms must ensure that they have written policies, procedures, and supervisory controls reasonably designed to detect and deter potentially violative conduct.

VI. Staff Contacts

Regulatory questions relating to this Information Memo should be addressed to:

- Patricia Bergholc, Director, FINRA Market Regulation, 917.281.3054; or
- Michael Fryer, Director, FINRA Market Regulation, 917.281.3071; or
- John Saxton, Director, FINRA Market Regulation, 917.281.3114.

Questions regarding the NYSE and NYSE Amex Equities Rules cited in this notice should be addressed to:

- Clare Saperstein, Vice President, NYSE Regulation, Inc., 212.656.2355; or
- David De Gregorio, Chief Counsel, NYSE Regulation, Inc., 212.656.4166.

Operations questions concerning this memorandum may be addressed to the following:

- Paul Bauccio, Senior Vice President, Operations, 212.656.2929; or
- Dennis Pallotta, Director, Operations, 212.656.5236; or
- Sonia Rosa, Managing Director, Operations, 212.656.2899.

Questions may also be directed to the FINRA On-Floor Surveillance Unit via the White Phone or in person at the Unit's Booth on the Floor.

Information Memo

Nyse Regulation, Inc

NYSE Regulation, Inc. | 20 Broad Street
New York, NY 10005
nyse.com

Number 09-20
May 5, 2009

TO: NYSE AND NYSE AMEX EQUITIES MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: AMENDMENT TO RULE 123C TO ADD TEMPORARY RULE SUSPENSIONS FOR AN EXTREME ORDER IMBALANCE AT THE CLOSE

I. Purpose

The purpose of this Information Memo is advise members and member organizations that the New York Stock Exchange, LLC ("NYSE") and NYSE Amex, LLC ("NYSE Amex") (collectively, the "Exchanges") have amended Rule 123C to provide the Exchanges with the ability to temporary suspend certain rule requirements relating to the closing of securities at the Exchanges.[1] These amendments delete the temporary provisions of Rule 48(b) relating to an extreme market volatility condition at the close, which was were added in October 2008, as previously discussed in Information Memo 08-48 (Oct. 3, 2008), and adopt them as Rule 123C(8). Rule 123C(8)(a)(1) has been adopted as a six-month pilot and the remainder of Rule 123C(8) has been adopted on a permanent basis.

II. Background

In October 2008, the NYSE amended Rule 48 to include the close of trading as a time when a qualified Exchange officer would be permitted to declare an extreme market volatility condition. In such event, the Exchange would temporarily suspend NYSE Rules 52 (Hours of Operation) and 123C(1) and (2) (Market on the Close Policy and Expiration Policy), provided that certain requirements were met. Those amendments to Rule 48 were temporary. When NYSE Amex relocated its equities operations to facilities and systems at 11 Wall Street, NYSE Amex Equities Rule 48, which is virtually identical to NYSE Rule 48, became operative for NYSE Amex-traded equities securities.

III. Amendments to Rule 123C

[1] See SEC Release No. 59755 (Apr. 13, 2009), 74 FR 18009 (Apr. 20, 2009) (SR-NYSE-2009-18 and SR-NYSEAltr-2009-15).

The Exchanges have adopted the temporary amendments to Rule 48 by deleting those provisions from Rule 48 and moving them to Rule 123C, some on a permanent basis and some on a pilot basis. As part of the amendments to Rule 123C, the Exchanges modified certain terms of the temporary suspensions and codified certain practices for entry of orders after 4:00 p.m. Because the temporary suspensions are now governed by Rule 123C, the Exchanges no longer need to declare a Floor-wide extreme market volatility condition at the close before granting such relief and may grant such requests for relief, if warranted, on a security-by-security basis. Such a temporary suspension is available to avoid, as appropriate, a closing price dislocation that may result from extreme order imbalances at or near the close.

A. Rule 123C(8)(a)(1): Entering Offsetting Interest after 4:00 p.m.

Pilot Rule 123C(8)(a)(1) provides that the Exchanges may temporarily suspend Rule 52 on a security-by-security basis so that interest may be solicited – including interest that may not have been present prior to 4:00 p.m. – to offset any imbalance that may exist as of 4:00 p.m. (or earlier, in the case of an earlier scheduled close). In connection with such solicitation requests:

- Interest must be solicited solely to offset any imbalance in a security that may exist as of 4:00 p.m.;
- The Exchanges will solicit such offsetting interest from both on-Floor and off-Floor participants using NYSE Trader Updates and messages directed to Floor brokers' hand-held device and BBSS screens;
- Exchange-issued solicitation requests will include information regarding security symbol, the imbalance amount and side, the last sale price, and an order acceptance cut-off time designated by the Exchange. The order acceptance cut-off time will generally be five minutes from the issuance of the solicitation request. In no event will the Exchanges accept offsetting interest after 4:30 p.m.; and
- Offsetting interest represented at the trading post in response to a solicitation request must be a limit order priced no worse than the last sale, irrevocable, and represented by a Floor broker by no later than the order acceptance cut-off time indicated in the solicitation request.

When closing a security subject to a Rule 52 temporary suspension, the DMM will not accept offsetting interest after the order acceptance cut-off time. The DMM may close the security earlier than the order acceptance cut-off time if the DMM receives offsetting interest that pairs off the imbalance so that the closing price would be reasonably contiguous to the last sale price, i.e., a price point within cents of the last sale price that would not be considered a dislocating closing price as compared to the last sale price during a regular auction closing process. All interest included in the closing transaction will receive an allocation consistent with the current parity model.

Any offsetting interest entered after 4:00 p.m. during a temporary suspension of Rule 52 must also be entered into the Front End Systemic Capture database ("FESC"), as required by Rule 123(e). Because such interest may not have been known until after 4:00 p.m., a Floor broker may represent such offsetting interest after 4:00 p.m. without first entering the details of the order into FESC, as required by Rule 123, so long as

such orders are entered into FESC on an "as of" basis immediately following execution of the order.

Rule 123C(8)(a)(1) has been approved as a six-month pilot starting April 13, 2009.

B. Rule 123C(8)(a)(2): Canceling MOC/LOC Legitimate Errors after 3:50 p.m.

Pursuant to Rule 123C(8)(a)(2), the Exchanges may temporarily suspend the restriction on canceling market-on-close ("MOC") and limit-on-close ("LOC") orders after 3:50 p.m. on an order-by-order basis. Rules 123C(1) and (2) provide that MOC and LOC orders cannot be canceled or reduced after 3:50 p.m. even if such orders are legitimate errors. The amendments provide that if an erroneous MOC or LOC order would cause significant price dislocation in the close, the Exchanges may consider temporarily suspending that restriction on canceling or reducing an MOC/LOC order that is a legitimate error. For an MOC/LOC order that is a legitimate error, but that would not have a significant impact on the closing price, the entering firm could not take advantage of the temporary suspension. If it is determined that such an erroneous MOC/LOC order would significantly dislocate the close, the Exchanges may grant a temporary suspension of Rule 123C(1) or (2) so that such order can be cancelled or reduced at any time up until that particular security has closed.

C. Rule 123C(8)(b): Procedures for Granting Temporary Suspension of Rules

Only the DMM in a particular security may request the relief available under Rule 123C(8)(a) to temporarily suspend either Rule 52 or Rule 123C(1) or (2). A determination to declare such a temporary suspension on a security-by-security basis may be made after 4:00 p.m. (or earlier, in the case of an earlier scheduled close). The determination to grant a temporary suspension under Rule 123C(8)(a), the entry or cancellation of orders, and the closing of a security under that Rule must be supervised and approved by either an Executive Floor Governor or a qualified NYSE Euronext employee, as defined under Rule 46(b)(v), and supervised by a qualified Exchange Officer, as defined in NYSE Rule 48(d). Such requests should be memorialized on a Floor Official Approval form.[2]

When determining whether to approve a temporary suspension under Rule 123C(8)(a), factors that may be considered include, but are not limited to, when the order(s) that impacted the imbalance were entered into Exchange systems or orally represented to the DMM, the impact of such order(s) on the closing price of that security, the volatility of the security during the trading session, and the ability of the DMM to commit capital to dampen the price dislocation.

IV. Supervision

Member organizations are reminded that they must have adequate written policies, procedures, and supervisory controls reasonably designed to comply with Rule

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[2] See Member Education Bulletin 2006-24 (Dec. 29, 2006), which describes the Floor Official Approval process. Floor Official Approval forms, which are available in the On-Floor Surveillance Unit's booth, are one-page, pressure-sensitive reports that provide copies for the participants in the approval process. The member submitting the Form to the On-Floor Surveillance Unit should retain a copy of the Form, as a required business record under Rule 440.

123C(8), as described in this Memorandum. Failure to have adequate written policies and procedures in place or to have an adequate supervisory system in place may result in disciplinary action.

V. Staff Contacts

Questions regarding Rule 123C(8) should be directed to NYSE staff as follows.

Operational questions should be directed to:

Paul Bauccio, Vice President, Floor Operations, at (212) 656-2929

Regulatory questions should be directed to:

Clare Saperstein, Managing Director, Office of General Counsel, NYSE Regulation, at (212) 656-2355

Questions may also be directed to the On-Floor Surveillance Unit via the White Phone or in person at their Booth adjacent to the Main Room. Questions that are not time sensitive may also be submitted to Ask Market Surveillance. (For information about the Ask Market Surveillance system, refer to Information Memo 2006-3, which was issued on January 30, 2006, if you or your firm is not already a subscriber.)

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Claudia Crowley
Senior Vice President & Chief Of Staff
NYSE Regulation

Information Memo

NYSE Regulation, Inc

NYSE Regulation, Inc. | 20 Broad Street
New York, NY 10005
nyse.com

Number 10-52
December 22, 2010

TO: NYSE AND NYSE AMEX EQUITIES MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: AMENDMENT TO RULE 123C(9)(a)(1): ELECTRONIC INTEREST ACCEPTED AFTER 4:00 PM TO OFFSET EXTREME IMBALANCE AT CLOSE

I. Purpose

The purpose of this Information Memo is to advise members and member organizations that the New York Stock Exchange, LLC ("NYSE") and NYSE Amex, LLC ("NYSE Amex") (collectively, the "Exchanges") have filed to amend Rule 123C(9)(a)(1) to provide that if the Exchanges temporarily suspend the hours of trading in order to solicit interest after 4:00 p.m. to offset an extreme order imbalance at the close, member organizations can now enter interest electronically in response to such a solicitation. This rule change and related system change will be effective January 3, 2011.

II. Background

In 2009, the Exchanges adopted, on a pilot basis, Rule 123C(8)(a)(1) (now Rule 123C(9)(a)(1)), which provides that the Exchanges may temporarily suspend Rule 52 on a security-by- security basis so that interest may be solicited – including interest that may not have been present prior to 4:00 p.m. – to offset any imbalance that may exist as of 4:00 p.m. (or earlier, in the case of an earlier scheduled close). As set forth in Information Memo 09-20 (May 5, 2009), in connection with such solicitation requests:

- Interest may be solicited solely to offset any imbalance in a security that may exist as of 4:00 p.m.;
- The Exchanges will solicit such offsetting interest from both on-Floor and off-Floor participants using NYSE Trader Updates and messages directed to Floor brokers' hand-held device and BBSS screens;
- Exchange-issued solicitation requests will include information regarding security symbol, the imbalance amount and side, the last sale price, and an

order acceptance cut-off time designated by the Exchange. The order acceptance cut-off time will generally be five minutes from the issuance of the solicitation request. In no event will the Exchanges accept offsetting interest after 4:30 p.m.; and

- Offsetting interest represented at the trading post in response to a solicitation request must be a limit order priced no worse than the last sale, irrevocable, and represented by a Floor broker by no later than the order acceptance cut-off time indicated in the solicitation request.

III. System and Rule Changes to Accept Electronic Interest After 4:00 p.m.

Beginning January 3, 2011, if the Exchange publishes a solicitation request pursuant to Rule 123C(9)(a)(1), Exchange systems will be able accept interest entered electronically after 4:00 p.m. This after-hours electronic order acceptance will be available only if Rule 123C9(a)(1) is invoked.

In connection with this systems change, the Exchanges have amended Rule 123C(9)(a)(1)(iii), effective January 3, 2011, to remove the limitation that only Floor brokers may represent interest to respond to a solicitation request under the Rule and to adopt the rule on a permanent basis. The amendment also clarifies that all interest submitted in accordance with the rule is executed consistent with to Exchange Rule 72(c). All other aspects of the Rule and operation of Rule 123C(9)(a)(1) remain unchanged.

IV. Member Organization Compliance Obligations When Entering Electronic Interest After 4:00 p.m.

When Exchange systems have been opened after 4:00 p.m. pursuant to Rule 123C(9)(a)(1), the only interest that may be entered after 4:00 p.m. is interest entered in response to a solicitation request. Exchange systems will not verify side or price, and will not block post-4:00 p.m. cancellation of interest submitted under this rule. Therefore, member and member organizations entering such interest are responsible for ensuring compliance with the rule, such that the only interest that may be entered in response to such a solicitation request is:

(i) offsetting;

(ii) a limit order priced no worse than the last sale price; and

(iii) not cancelled.

In addition, if Exchange systems have been opened after 4:00 p.m. in order to accept interest to offset an extreme order imbalance at the close, during that period, member organizations and members may not modify or cancel any orders that were entered before 4:00 p.m.

Failure to comply with these requirements for entering electronic interest in response to a solicitation request is a violation of Exchange rules and may result in disciplinary action. In addition, member organizations are reminded that they must have adequate written policies, procedures, and supervisory controls reasonably designed to comply with Rule 123C(9)(a)(1), as described in this Memorandum. Failure to have adequate written policies and procedures in place or to have an adequate supervisory system in place may also result in disciplinary action.

V. Staff Contacts

Questions regarding Rule 123C(9)(a)(1) should be directed to Exchange staff as follows.

Operational questions should be directed to:

Paul Bauccio, Senior Vice President, Floor Operations, at (212) 656-2929

Regulatory questions should be directed to:

Clare Saperstein, Vice President, NYSE Regulation, at (212) 656-2355

Questions may also be directed to the On-Floor Surveillance Unit via the White Phone or in person at their Booth adjacent to the Main Room.

NYSE Regulation, Inc.

Information Memo

Market Surveillance

NYSE Regulation, Inc. | 11 Wall Street
New York, NY 10005
nyse.com

Number 09-22
May 28, 2009

ATTENTION: COMPLIANCE AND LEGAL DEPARTMENTS

TO: ALL MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: Procedures for Escalating and Addressing Inquiries Arising from Real-Time Regulatory or Trading Issues

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The purpose of this Information Memo is to remind all members and member organizations that they should have a process in place to enable timely response to and resolution of inquiries from their employees or NYSE Regulation, Inc. ("NYSE Regulation") regarding real-time regulatory matters or trading activities on the Floor or through NYSE systems. Such a process is mandated by Rule 342 which requires adequate procedures for supervision and control of business activities, including a separate system of follow-up and review, designed to achieve compliance with applicable rules and federal securities laws.

There have been recent instances in which Market Surveillance and/or member organization employees have attempted to contact member organizations with respect to various regulatory issues but the member organization was unable to promptly respond, and the matter could not therefore be resolved in a timely fashion. The types of matters that require prompt escalation and attention include, but are not limited to, account intrusion activity, unusually large orders that could have been submitted in error, unusual trading that could be the result of aberrational algorithmic activity, potentially violative odd-lot transactions, or potentially fraudulent or manipulative trading.

While it is important to maintain information barriers and confidentiality requirements, it is also necessary that member organizations be able to quickly respond to real-time regulatory or trading issues in order to maintain a fair and orderly market. NYSE Regulation recognizes that member organizations need to have in place appropriate information barriers under applicable rules and federal securities laws and that such information barriers may implicate the sharing of information within a business unit in a member organization. To that end, member organizations should have policies and procedures that retain information barriers while providing for the prompt escalation, review, and resolution of all real-time trading issues by legal and compliance staff. Risk managers, compliance officers, and/or other appropriate individuals within a business

unit should have access to necessary information (live order information, position information, etc.) and necessary areas at the member organization in order to resolve such inquiries. The responsible individual(s) should also be sufficiently supported in resolving these inquiries.

The identity (name, title, and location) and contact information (telephone numbers, e-mail address, etc.) for each individual designated pursuant to the member organization's policies and procedures for response to real-time trading issues should be provided to all applicable member organization employees. At the member organization's discretion, this contact information may also be provided to Market Surveillance, via the Electronic Filing Platform.

Member organizations should update this contact information on a rolling basis. Also, policies and procedures should provide a mechanism for NYSE Regulation personnel to have prompt access to the designated individual(s) regarding any such inquiries.

In addition, for any regulatory questions relating to real-time trading activities on the Floor or through NYSE systems, member organizations may contact Patricia Bergholc, Director, Market Surveillance, (212) 656-4948, pbergholc@nyx.com.

Staff Contacts

Questions regarding this Information Memo should be directed to Jean O'Rourke, Director, Market Surveillance, (212) 656-6007, jorourke@nyx.com, or Peter Bon Viso, Senior Counsel, Market Surveillance, (212) 656-5621, pbonviso@nyx.com.

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John F. Malitzis
Executive Vice President
Market Surveillance

Information Memo

NYSE Regulation, Inc

NYSE Regulation, Inc. | 20 Broad Street
New York, NY 10005
nyse.com

Number 11-13
May 16, 2011

TO: ALL NYSE AND NYSE AMEX EQUITIES MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: NEW SEC RULE 15c3-5 GOVERNING SUPERVISION OF MARKET ACCESS

I. Purpose

New York Stock Exchange LLC ("NYSE") and NYSE Amex Equities LLC ("NYSE Amex") (collectively, the "Exchange") reminds members and member organizations that the new market access requirements set forth in SEC Rule 15c3-5 are scheduled to go into effect on July 14, 2011, and that members and member organizations must have the required controls and procedures in place by that time. Failure to establish and enforce the risk management controls and supervisory procedures required by SEC Rule 15c3-5 may also violate Exchange Rules, including the supervisory requirements of Rule 342.

II. New SEC Rule 15c3-5

On November 3, 2010, the SEC adopted new Rule 15c3-5 to require broker-dealers with direct trading or "market" access to an exchange or alternative trading system ("ATS"), or that provide a customer or any other person with access to an exchange or ATS through use of its market participant identifier or otherwise, to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of its market access business. The Rule applies to transactions by all broker-dealers with market access, and the Rule does not distinguish between transactions for a broker-dealer's own account (including market making activities) and traditional agency transactions.

SEC Rule 15c3-5 applies to any type of arrangement for "market access," which is defined in Rule 15c3-5 as "(i) access to trading in securities on an exchange or alternative trading system as a result of being a member or subscriber of the exchange or alternative trading system, respectively; or (ii) access to trading in securities on an alternative trading system provided by a broker-dealer operator of an alternative trading system to a non-broker-dealer." By virtue of the Rule's requirements, unfiltered, or "naked," market access will no longer be permitted.

As set forth in SEC Rule 15c3-5, the risk management controls and supervisory procedures must include the following elements:

1. Financial Risk Management Controls and Supervisory Procedures

The financial risk management controls and supervisory procedures must be reasonably designed to systematically limit the financial exposure of the broker-dealer that could arise as a result of market access, including being reasonably designed to:

- Prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker-dealer and, where appropriate, more finely-tuned by sector, security, or otherwise by rejecting orders if such orders would exceed the applicable credit or capital thresholds; and

- Prevent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.

2. Regulatory Risk Management Controls and Supervisory Procedures

The regulatory risk management controls and supervisory procedures must be reasonably designed to ensure compliance with all regulatory requirements, including being reasonably designed to:

- Prevent the entry of orders unless there has been compliance with all regulatory requirements that must be satisfied on a pre-order entry basis;

- Prevent the entry of orders for securities for a broker-dealer, customer, or other person if such person is restricted from trading those securities;

- Restrict access to trading systems and technology that provide market access to persons and accounts pre-approved and authorized by the broker-dealer; and

- Assure that appropriate surveillance personnel receive immediate post-trade execution reports that result from market access.

SEC Rule 15c3-5 provides that a broker-dealer with market access may reasonably allocate, by written contract, control over specific regulatory risk management controls and supervisory procedures to a client that is a registered broker-dealer, provided that the broker-dealer with market access has a reasonable basis for determining that such client, based on its position in the transaction and relationship with an ultimate customer, has better access than the broker-dealer with market access to that ultimate customer and its trading information such that it can more effectively implement the specified controls or procedures. In addition, SEC Rule 15c3-5 provides that any such allocation of control does not relieve the broker-dealer with market access from any obligation under the Rule, including the overall responsibility to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of market access.

III. Additional Considerations for Exchange Members and Member Organizations

Member organizations are reminded that under Exchange Rule 342 and FINRA Rule 3130, they must update their existing written compliance and supervisory policies and procedures to reasonably ensure compliance with the requirements of SEC Rule 15c3-5. Failure to have appropriate policies and procedures in place may result in disciplinary action under Exchange rules.

The Exchange is assessing whether changes to its sponsored access rules are appropriate to align such rules with SEC Rule 15c3-5. **Previous guidance on sponsored or market access,**

and in particular the relevant portions of Information Memo 02-48 (November 7, 2002), which sets forth the responsibilities of Exchange members and member organizations when utilizing electronic order routing systems, are superseded by SEC Rule 15c3-5 and may no longer be relied on. Members and member organizations should note, however, that sponsored or market access arrangements must continue to comply with all Exchange audit trail requirements, including the Front End Systemic Capture ("FESC") requirements of Rule 123.

Finally, the Exchange does not anticipate disabling any existing connectivity arrangements solely as a result of SEC Rule 15c3-5 going into effect. All member organizations must ensure that any connectivity arrangements are in compliance with the Rule before July 14, 2011.

IV. Additional Information

Please note that the foregoing description of SEC Rule 15c3-5 is a summary of the applicable requirements, and the actual rule text and adopting SEC release are controlling. Members and member organizations should review the final adopting release for Rule 15c3-5 on the SEC's website at http://www.sec.gov/rules/final/2010/34-63241.pdf. The SEC has also created a Small Entity Compliance Guide, which can be found at http://www.sec.gov/rules/final/2010/34-63241-secg.htm.

V. Staff Contact Information

Questions regarding this Information Memo should be directed to:

NYSE Regulation Contacts

Clare Saperstein, Vice President, NYSE Regulation, Inc., 212.656.2355, or

David De Gregorio, Chief Counsel, NYSE Regulation, Inc., 212.656.4166.

FINRA Contacts

Sue Lui Facendola, Vice President, Member Trading, 917.281.3085, or

Peter Stoehr, Vice President, TMMS Administration, 212.858.4722.

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NYSE Regulation, Inc.

Information Memo

New York Stock Exchange, Inc.
11 Wall Street
New York, NY 10005

Market Surveillance

NYSE

Number 95-28
July 10, 1995

TO: ALL MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: Positioning to Facilitate Customer Orders

The purpose of this memorandum is to present the Exchange's view of various trading strategies employed by member organizations to facilitate customer stock or program orders. Although it is not possible to provide an all-inclusive discussion of these strategies, the Exchange believes it is important to describe the kind of activity which would be inconsistent with just and equitable principles of trade.

A member organization "A" commits to sell (buy) securities after the close to (from) a customer at the closing price on the Exchange. To position itself to facilitate this transaction, "A" buys (sells) the stock(s) throughout the day in a proprietary account, assuming the risk of the market. In order to reduce the risk of the proprietary position it is assuming during the day, "A" leaves a portion of the position to be executed at the close. If the size of the transaction(s) "A" intends to execute at the close can reasonably be expected to impact the closing price(s), "A" should not buy (sell) any stock related to that position near the close. (":A" would not be precluded from entering proprietary market-on-close orders for execution in the closing transaction, if "A" is not representing any proprietary orders near the closing transaction). What constitutes "near the close" depends upon the degree of risk which can reasonably be attributed to the position established by that trade versus the reasonably anticipated impact the trade at the close will have on the closing price. While each situation may be unique, depending upon the size of the transaction and the liquidity of the stock, generally traded executed <u>after 3:40 p.m.</u> would be considered "near the close." Engaging in such transactions for the firm's proprietary account would be conducted inconsistent with just and equitable principles of trade. However, "A" would not be precluded from executing the customer's order on an agency basis at any time, including at or near the close. It should be recognized, however, that this does not preclude the Exchange from determining that such activity may be a violation of the anti-manipulative provisions of the Securities Exchange Act of 1934 or Exchange rules.

Similarly, intra-day, it would be conduct inconsistent with just and equitable principles of trade for a member organization to effect any transactions in a stock while knowing of the imminent execution of a block, in order to subsequently liquidate the position by

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participating on the contra-side of the block transaction. For example, if “A” knows a block will be bought one-quarter of a point up from the current market, “A” should not buy stock to subsequently sell into the block transaction at the higher price.

In addition, it would be conduct inconsistent with just and equitable principles of trade for any person to disclose to any other person trading strategies or customers’ orders for the purpose of that person taking advantage of the information for personal benefit or for the benefit of the member organization. This does not, however, preclude a member organization from soliciting interest to trade with the contra side of a block in the normal course of engaging in block facilitation activities.

Member organizations are required to establish and maintain procedures reasonably designed to review facilitation activities for compliance with Exchange rules and federal securities laws. Member organizations must ensure that trading strategies engaged in by their proprietary traders to facilitate customers’ orders have an economic basis and are not engaged in to mark the closing price or to mark the value of a position. In addition, before any at-the-close customer order is transmitted to the Floor, the member organization accepting the order must exercise due diligence to learn the essential facts relative to the order, including the purpose and propriety of the at-the-close instructions, particularly when it has knowledge of other orders executed for the customer’s account during the day.

Questions regarding the above may be directed to Agnes Gautier at (212) 656-4608.

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