



Number 09-25  
June 18, 2009

**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 - JUNE 19, 2009

## **I. Purpose of this Information Memo**

Friday June 19, 2009, will be a quarterly Expiration Day for stock and index options and futures products whose settlement pricing is based upon NYSE and NYSE Amex (collectively, the "Exchanges") opening or closing prices on that day. NYSE Regulation is issuing this Information Memorandum to remind 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 other order types, publication of on-the-close imbalances, and printing the closing transaction.

## **II. S&P Quarterly Rebalance**

Following the close of trading on June 19, 2009, Standard & Poor's will affect a quarterly share rebalancing of the S&P 500, the S&P MidCap 400, S&P SmallCap 600 and S&P REIT Composite Indices. This rebalancing may affect the volume of trading of certain stocks on the Exchanges. Details on these rebalancings are available on S&P's website ([www.standardandpoors.com](http://www.standardandpoors.com)).

## **III. Expiration Day Opening Imbalance Publication**

Members and member organizations are reminded that the regular pre-opening procedures outlined in NYSE and NYSE Amex Equities Rules 15 and 123D will apply on the June 19 Expiration Day.<sup>1</sup> Accordingly, DMMs should publish indications as

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<sup>1</sup> See also NYSE and NYSE Amex Equities Rule 123C(7) for Expiration Day auxiliary procedures for the integration of orders related to expiring index contracts into the Exchanges' opening procedures.

promptly as practicable but should be mindful 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 NYSE or NYSE Amex Equities Rule 48 (Exemptive Relief – Extreme Market Volatility Condition), the terms of that rule would govern the obligation to publish pre-opening indications.

#### **IV. NYSE and NYSE Amex Equities Rules and Policies Relating to the Close**

##### **A. MOC/LOC Order Entry and Cancellation**

Members and member organizations are reminded that the provisions of NYSE and NYSE Amex Equities Rule 123C will apply to the close on the June 19 Expiration Day, subject to the temporary modifications outlined in this memorandum. Please note that, while the Exchanges expect their systems to operate normally on June 19, in the unlikely event of a systems interruption leading into or at the Close, the MOC/LOC Policy 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 NYSE or NYSE Amex Equities Rule 123C(8) (Market On The Close Policy And Expiration Procedures - Extreme Order Imbalances at or Near the Close), the terms of that rule would govern the handling of orders at the Close.<sup>2</sup>

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

- A “published imbalance” is an MOC/LOC imbalance that has been disseminated to the Tape. An imbalance that is announced verbally or physically posted at the panel (e.g. white board) is not considered to be a published imbalance.<sup>3</sup>
- Brokers and traders are reminded that, while they should enter orders as early in the day as possible, all MOC/LOC orders (unless to offset an imbalance) must be entered with the DMM by 3:40 p.m. Entering MOC/LOC orders early provides DMMs with the opportunity to more quickly identify potential order imbalances that might exist at the Close and to disseminate that information. This, in turn, enables brokers and traders to more effectively identify potential offsetting customer interest that could mitigate any imbalance. MOC/LOC orders entered prior to 3:40 p.m. may be canceled prior to that time for any reason.
- Between 3:40 p.m. and 3:50 p.m., MOC/LOC orders may be entered only to offset a security’s published imbalance. During this time period,

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<sup>2</sup> See Section IV. D. of this memo for more information on NYSE and NYSE Amex Equities Rule 123C(8).

<sup>3</sup> See Section IV. B. of this memo for more information.

MOC/LOC orders may be canceled or reduced in size only to correct a legitimate order entry error. Please note that Market Surveillance will continue to closely monitor the cancellation of MOC/LOC orders pursuant to the Rules of the Exchanges.

- After 3:50 p.m., MOC/LOC orders may be entered only to offset a security's published imbalance. After 3:50 p.m., MOC/LOC orders may not be cancelled or reduced in size for any reason.<sup>4</sup>

## B. MOC/LOC Imbalance Publication<sup>5</sup>

NYSE and NYSE Amex Equities Rule 123C provide for the publication of order imbalances as described below. In addition, members 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 MOC/LOC imbalance publications between 3:00 p.m. and 3:40 p.m.

Between 3:00 p.m. and 3:40 p.m., DMMs are encouraged to publish informational MOC/LOC imbalances 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 order entry or cancellation before 3:40 p.m. DMMs who wish to publish informational imbalances must obtain at least Floor Official approval prior to publication.<sup>6</sup>

2. Required MOC/LOC imbalance publications at 3:40 p.m. and 3:50 p.m.

As soon as practicable after 3:40 p.m., the DMM must publish 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. In addition, the DMM must update any informational imbalance published prior to 3:40 p.m., indicating either the current imbalance or "no imbalance".

Similarly, as soon as practicable after 3:50 p.m., DMMs must update any publications made at 3:40 p.m. Imbalances of 50,000 shares or more (NYSE), 25,000 shares or more (NYSE Amex Equities), or other significant imbalances, must be published; if there is no such imbalance, the DMM must publish a "no imbalance" indication. Where there

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<sup>4</sup> In the event of a regulatory halt effective at 3:40 p.m. or later, MOC/LOC orders may be entered (on either side of the market) or canceled up to 3:50 p.m. or until the stock reopens, whichever occurs first. See NYSE and NYSE Amex Equities Rules 123C(1) and (2).

<sup>5</sup> Imbalance publications include both MOC and marketable LOC orders (based on the last sale price at the time the publication is made). See NYSE and NYSE Amex Equities Rule 123C(5).

<sup>6</sup> Floor Official approvals to publish informational imbalances should be recorded on the Floor Official Approval form under Item 12 ("Consultation/Other"). Members should state the proposed imbalance information and note any other relevant information (e.g. ADTV, size, degree of impact) in connection with the request.

was no publication for a stock at 3:40 p.m., but an MOC/LOC imbalance occurred after 3:40 p.m., the DMM should publish the imbalance at 3:50 p.m. with prior Floor Official approval.

3. Recommended MOC/LOC imbalance publications at 3:40 p.m. and 3:50 p.m.

Notwithstanding the required imbalance publications (as described above), DMMs are encouraged to publish MOC/LOC imbalances of any size, including amounts less than 50,000 shares (NYSE) or 25,000 shares (NYSE Amex Equities), if the imbalance could cause significant price dislocation at the close (e.g. an imbalance that is large in comparison to the average daily volume or regular trading patterns for the stock). DMMs who wish to publish such imbalances must obtain Floor Official approval prior to publication.

4. Exchange publication of Order Imbalance Information

In addition to the DMM imbalance publications described above, the Exchanges also make available real-time Order Imbalance Information prior to the Close, pursuant to NYSE and NYSE Amex Equities Rule 123C(6). These publications take place approximately every 15 seconds between 3:40 p.m. and 3:50 p.m., and approximately every five seconds between 3:50 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 both MOC and marketable LOC orders.<sup>7</sup>

When the close of trading on the Exchanges is scheduled for earlier than 4:00 p.m., the publication of Order Imbalance Information by the Exchanges will commence 20 minutes prior to the scheduled closing time. In such circumstances, Order Imbalance Information will be published approximately every 15 seconds for about 10 minutes, and then every five seconds from that point until the scheduled Close.

Please note, however, that Order Imbalance Information publications are solely for informational purposes and do not permit the submission of off-setting interest. Off-setting MOC/LOC interest may be submitted only as described in this memo, pursuant to an imbalance publication made by a DMM at 3:40 or 3:50 p.m. in accordance with Rules 123C(1) and (2).

### C. Printing the Closing Transaction

1. NYSE and NYSE Amex Equities Rules 116.40 and 123C(3)

DMMs are reminded that the closing transaction must be printed consistent with NYSE and NYSE Amex Equities Rules 116.40 and 123C(3) and they must accurately reflect both the closing price and closing volume when printing the closing transaction.<sup>8</sup>

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<sup>7</sup> For more information on how the reference price is determined, see NYSE and NYSE Amex Equities Rule 123C(6)(c).

<sup>8</sup> See NYSE Information Memo 2009-05 (February 4, 2009) (attached), describing changes to NYSE and NYSE Amex Equities Rules 116.40 and 123C(3) and the printing of the closing transaction. 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.

Due to possible system latency, marketable orders entered into Exchange systems before 4:00 p.m. might not be received at the post until after 4:00 p.m. These orders should be incorporated into the closing process, just as non-MOC/LOC interest that is known at the post is factored into the closing print after 4:00 p.m.

## 2. Verbal Interest and e-Quotes at the Close

All interest, including verbal, e-Quoted, d-Quoted and Display Book interest, should be taken into account by the DMM when formulating the Close. Unless market conditions dictate otherwise, interest priced better than the Close must be executed on the Close as that interest is considered marketable. Interest limited to the closing price will be executed depending on the availability of contra side interest.

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: limited verbal interest should be entered into the system as a manual e-Quote and DMMs may require a written order from the broker; marketable verbal interest should be entered into the Closing template.

## 3. Orders to offset MOC/LOC imbalances at the Close to mitigate price disparity

NYSE and NYSE Amex Equities Rule 902 (Off Hours Trading Orders) provide 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 is willing to participate in the Close but was received at the Post only moments before the close of the regular trading session 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 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 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, NYSE and NYSE Amex Equities Rule 123C(8) permits the Exchanges 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. Any such extension of trading under Rule 123C(8) would be designated by the Exchanges for a specific time period within 30 minutes after the scheduled close.

Rule 123C(8) also permits temporary suspension of the prohibition on the cancellation or reduction of a MOC/LOC order after 3:50 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(8). A request for relief under Rule 123C(8) must be approved and supervised by an Executive Floor Governor or qualified NYSE Euronext employee.

## **V. 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 June 19 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 increased workload anticipated as a result of the quarterly rebalancing. 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 algorithms/API 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.

## **VI. Supervision**

### **A. Review of Policies and Procedures**

In view of increased automated order delivery, e-Quoting and automatic execution, NYSE Regulation is advising members and member organizations to carefully review their procedures as well as their supervisory systems for handling orders in connection with the June 19 Expiration Day. NYSE Regulation expects members and member organizations to review their practices for handling orders at or near the Close, particularly with respect to any orders where there is an on-close or other price guarantee for those securities that are part of the quarterly rebalancing. Reviews should include both orders that are handled manually as well as those orders that are 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 staff 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) 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, including usage of the Exchanges' odd-lot systems. Please consult NYSE Information Memos 02-48 (November 7, 2002) and 07-60 (June 29, 2007) (both 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 supervisory policies and procedures to monitor for compliance with NYSE and NYSE Amex Equities Rule 123C and the guidance contained in this Information Memo. Those 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 or SEC rules.

#### C. Due Diligence Requirements

Consistent with the requirements of NYSE and NYSE Amex Equities 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 provisions of this Information Memorandum. Firms should also review the provisions of NYSE 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 an order at a price that is derived from the closing price (e.g., 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 rules and policies, members and member organizations should review 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 adequate policies and procedures to detect, deter and prevent such potentially violative conduct.

## **VII. Staff Contacts**

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

Patricia Bergholc, Director, On Floor Surveillance, at (212) 656-4948  
Gordon Brown, Manager, On Floor Surveillance, at (212) 656-5321  
Michael Fryer, Director, Member Trading, at (212) 656-4656  
Carol Krusik, Director, Member Education, at (212) 656-4597  
Michael Matejczyk, Director, Member Trading, at (212) 656-4854  
John Saxton, Director, Member Trading, at (212) 656-2324 or  
Andrew White, Director, Member Trading, at (212) 656-4498.

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

Paul Bauccio, Senior Vice President, Operations, at (212) 656-2929 or  
Dennis Pallotta, Director, Operations, at (212) 656-5236.

Questions may also be directed to OFSU via the White Phone or in person at their booth in the Garage. Questions that are not time sensitive may also be submitted to Ask Market Surveillance. For information about the Ask Market Surveillance system, refer to NYSE Member Education Bulletin 2006-3 (January 30, 2006)(attached), if you or your firm is not already a subscriber.

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John F. Malitzis  
Executive Vice President  
Market Surveillance

Attachments