

# Information Memo

Nyse Regulation, Inc



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Number 09-29  
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**TO:** ALL MEMBERS AND MEMBER ORGANIZATIONS

**SUBJECT:** ENTERING AND EFFECTING ORDERS AT OR NEAR THE CLOSE

This Information Memo reiterates certain points made in Information Memos 09-26 and 09-27 in order to remind NYSE and NYSE Amex members and member organizations of their responsibilities when handling orders at or near the close.

Members and member organizations should be aware that certain orders and order-entry practices can improperly dislocate the market in a security, raising regulatory concerns. In particular, orders entered at or near the close, either verbally or electronically, can artificially distort prices if, for example, the size of the order is unusual in relation to the average daily volume of the stock or otherwise cannot easily be absorbed because of prevailing market conditions. This is because there is not sufficient time for the market to react to such orders and provide offsetting liquidity that could dampen the resultant volatility. Accordingly, members and member organizations are advised that they should avoid holding back large interest for entry at or near the close, since otherwise they could face regulatory exposure for affecting the close inappropriately.<sup>1</sup> Members and member organizations should review with traders and other order-entry personnel in their employ, all firm policies and procedures regarding orders to be executed at or near the close, to ensure that such activity does not have the effect of improperly impacting the closing price.<sup>2</sup>

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<sup>1</sup> See NYSE Regulation Information Memos 06-81 and 07-26, and NYSE Hearing Panel Decision No. 05-108, for more information on what type of conduct is and is not permitted.

<sup>2</sup> Previously issued guidance by NYSE Regulation concerning the close includes, but is not limited to, NYSE Information Memorandum 95-28 (July 10, 1995)(discussing trading near the close and activity that would constitute violations of NYSE Rules, as well as federal securities laws); and NYSE Information Memorandum 05-52 (August 1, 2005)(regarding VWAP trading at or near the close, which addresses the responsibility for ensuring that trading strategies utilized to facilitate or hedge VWAP orders have an economic basis and do not have the effect of marking the close or marking the value of a position).

Where a large order (or series of orders) is entered at or near the Close that could cause significant price dislocation, the DMM should immediately seek guidance from a Floor Governor or Executive Floor Governor, and from NYSE Regulation.

NYSE Regulation reviews trading in NYSE- and NYSE Amex-listed securities for, among other things, possible manipulative activity, including marking the close, which may be in violation of federal securities laws and/or Exchange Rules, including Sections 9(a) and 10(b) of the Securities Exchange Act of 1934, Securities Exchange Act Rule 10b-5, and NYSE and NYSE Amex Rules 435 and 476(a).

Questions about the guidance contained in this Information Memo should be directed to:

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