



TO: NYSE Listed Company Executives
FROM: NYSE Regulation, Inc.
RE: Listed Company Compliance Guidance
DATE: January 12, 2015

Each year, the staff of NYSE Regulation prepares a memo highlighting recent developments and ongoing policies applicable to foreign private issuers listed on the New York Stock Exchange (“NYSE” or the “Exchange”). The purpose of this memo is to provide a summary of Exchange policies and rules that most commonly impact foreign private issuers. A complete text of Exchange rules can be found online in the [NYSE Listed Company Manual](#)¹ (“Listed Company Manual”) which has a search feature and a “What’s New” tab to highlight recent rule amendments. In addition, our staff is always available to answer questions on these and other rules. Contact information for relevant NYSE personnel is provided at the end of this memo. We hope you find this information helpful and encourage you to provide a copy of this memo to appropriate executives and outside advisers who have responsibility for handling matters related to your listing on the NYSE. All questions may be directed to the contacts listed at page 6.

[egovdirect.com](#)

[egovdirect.com](#) is the Exchange’s complimentary, interactive compliance website. A customized version has been specifically designed for foreign private issuers which recognizes the applicable corporate governance standards for such companies. It also allows a depository bank to submit certain required information for American Depositary Shares listed on the NYSE.

The website is designed to help listed companies meet their corporate governance and compliance obligations efficiently and effectively by anticipating and notifying users of important filing dates and then providing an acknowledgment that such filing obligations have been met. Users of [egovdirect.com](#) are able to capture, submit, classify and archive all governance and corporate reporting requirements electronically.

In addition, [egovdirect.com](#) enables listed companies to replace most telephonic and hard copy filings and notices to the Exchange with electronic reporting. Examples of notifications that can be submitted to the Exchange via [egovdirect.com](#) include the reporting of dividends, shareholders’ meetings and shares outstanding; submission of news releases; and changes to directors and officers. Users can also create, submit and archive annual and interim written affirmations electronically on [egovdirect.com](#) instead of filing hard copies with the Exchange.

We strongly encourage listed companies and/or their depository banks to take advantage of [egovdirect.com](#) and are happy to provide an online demonstration.

¹ Go to <http://nysemanual.nyse.com/lcm/>.

WHAT'S NEW: NYSE Late Filer Policy

The Exchange recently submitted a proposed rule change to the Securities and Exchange Commission ("SEC") to revise its policy with respect to listed companies that do not timely file their periodic reports with the SEC. It is important that investors have access to accurate and current disclosure about the business and financial position of companies listed on the Exchange. Under current Exchange rules, it is only when a company fails to timely file its annual report that it becomes noncompliant and subject to specific cure periods. Going forward, however, the Exchange is proposing to establish cure periods for those reports that are defective in certain respects. The Exchange expects the proposed rule change to become effective on March 1, 2015 and specific changes to the Exchange's late filer rule include²:

1. The new rule will be expanded to cover annual reports that are deemed to be defective either at the time of their filing with the SEC or subsequently thereto. Among the reasons that a periodic report may be deemed defective include (i) an annual report that was filed without a financial statement audit report from its independent auditor for any or all periods included in the report, (ii) a company's independent auditor subsequently withdraws its audit report from a previously filed report, or (iii) a company discloses that previously filed financial statements should no longer be relied upon. If a listed company's period report is deemed to be defective for one of the foregoing reasons, such company will be subject to the cure provisions of Section 802.01E of the Listed Company Manual.
2. Listed companies will have a maximum of twelve months to cure a delinquent or defective filing and regain compliance. In order to be deemed back in compliance, listed companies must have cured the initial delinquent or defective filing and be current with all subsequent filings within the maximum twelve month cure period.

For a complete description of the Exchange's new late filer policy, please see the [proposed rule text](#).

IMPORTANT REMINDERS

Record Dates, Shareholder Meeting/Proxy Matters, Redemptions and Conversions of Listed Securities and/or other Notifications to the Exchange

Record Dates:

In order to ensure that they are able to participate in shareholder meetings as well as receive company distributions and other important communications, investors must hold their securities on the relevant record date established by the listed company. The Exchange disseminates record date information to the marketplace so that investors can plan their holdings accordingly. Listed companies are therefore required to notify the Exchange at least ten calendar days in advance of all record dates set for any purpose. If a listed company changes a record date, it must provide another advance notice of at least ten calendar days. The Exchange has established a uniform method for listed companies to follow when providing notice (see [Section 204.00](#) of the [Listed Company Manual](#)). Record date notifications can be

² In addition to the changes highlighted above, the proposed late filer rule will also be expanded to cover quarterly reports on Form 10-Q. The Exchange notes that foreign private issuers are not required to file quarterly reports on Form 10-Q with the SEC.

easily submitted electronically through egovdirect.com.³ For foreign private issuers, these notifications are typically submitted by the listed company's depository bank. Please note that record date notifications must be communicated directly to the Exchange and publication of a record date by means of a press release or SEC filing does not constitute notice to the Exchange.

Record dates should not be set on a Saturday, Sunday or Exchange holiday. In rare situations, where the terms of a security mandate a record date that falls on a Saturday, Sunday or Exchange holiday, the company's announcements should make clear that the effective record date is the immediately preceding business day.

The Exchange has no authority to waive its record date notification requirements, so strict compliance with the notification rules is essential in order to avoid situations where record dates or dates for shareholder meetings, dividends or other corporate actions must be reset.

Meeting Dates:

The Exchange recommends a 30-calendar day period between the record date and meeting date.

Shareholder Meetings and Proxy Materials:

Listed companies are required to have an annual shareholders' meeting each fiscal year. Three definitive copies of all proxy materials (including the proxy card) must be filed with the Exchange no later than the date on which such materials are sent to any security holder. If consents are to be used in lieu of a special meeting, notification to the Exchange is also required. Proxy materials should be sent to Market Watch & Proxy Compliance, New York Stock Exchange, 20 Broad Street – 5th Floor Mailroom, New York, NY 10005.

Redemption and Conversion of Listed Securities:

Advance notice to the Exchange is required for any redemption or conversion of a listed security. The Exchange disseminates this information to the investing public and tracks redemptions and conversions to ensure that any reduction in securities outstanding does not result in noncompliance with the Exchange's distribution and market capitalization continued listing standards. Accordingly, pursuant to [Sections 204.08](#), [204.22](#) and [311.01](#) of the [Listed Company Manual](#), listed companies should promptly contact their Corporate Actions analyst at 212-656-5505 prior to issuing an announcement about the redemption or conversion of a security that is listed on the Exchange.

Annual Report Website Posting Requirement

[Section 203.01](#) of the [Listed Company Manual](#) requires a listed company to make its Form 10-K, 20-F or 40-F available on or by a link through its website simultaneously with the EDGAR filing. A listed issuer that does not distribute its proxy in accordance with the U.S. proxy rules must also:

- Post a prominent undertaking on its website to provide all holders the ability, upon request, to receive a hard copy of the complete audited financial statements free of charge; and
- Issue a press release which:
 - States that the Form 10-K, 20-F or 40-F has been filed with the SEC;

³ Listed companies may also submit notifications by emailing a copy of the notice to the Exchange (nysealert@nyse.com).

- Includes the company’s website address; and
 - Indicates that shareholders have the ability to receive hard copy of the complete audited financial statements free of charge upon request.
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Corporate Governance Requirements

Written Affirmation Requirements:

All companies listed on the Exchange are required to maintain certain corporate governance standards. To ensure that foreign private issuers are mindful of, and in compliance with, these ongoing obligations, the Exchange requires foreign private issuers to file a Foreign Private Issuer Section 303A Annual Written Affirmation each calendar year. This form identifies the Exchange’s corporate governance rules applicable to foreign private issuers and asks listed company executives to affirm their compliance. The affirmation is due no later than 30 days after the company’s Form 10-K, 20-F or 40-F is filed with the SEC.

In addition, a Foreign Private Issuer Section 303A Interim Written Affirmation must be filed promptly (within five business days) after any triggering event specified on that form.

The Annual and Interim Written Affirmations can be easily created and filed electronically through egovdirect.com. The forms and instructions are also available on the Exchange’s [website](#).⁴

Frequently Asked Questions (“FAQs”):

FAQs about Section 303A Corporate Governance Standards can be found on the Exchange’s [website](#).⁵

Transactions Requiring Supplemental Listing Applications

A foreign private issuer is required to file a Supplemental Listing Application (“SLAP”) to seek authorization from the Exchange for a variety of corporate events including:

- Issuance (or reservation for issuance) of additional shares of a listed security, regardless of whether the additional securities are intended for distribution in the United States;
- Issuance (or reservation for issuance) of additional shares of a listed security that are issuable upon conversion of another security, whether or not the convertible security is listed on the Exchange;
- Change in corporate name, American Depositary Share ratio or par value; and/or
- Listing a new security (e.g., a new preferred stock, second class of stock, bond).

No additional shares of a listed security, or any security convertible into the listed security, may be issued until the Exchange has authorized a SLAP. Such authorization is required prior to issuance whether or not the security is to be registered with the SEC, including if conversion is not possible until a future date. The Exchange requests at least two weeks to review and authorize all applications. It is recommended that a SLAP be forwarded to the Exchange as soon as a listed company’s board approves

⁴ Go to <https://www.nyse.com/regulation/nyse/issuer-oversight#corporate-governance>.

⁵ Go to <http://usequities.nyx.com/regulation/listed-companies-compliance/corporate-governance>.

a transaction. [Section 703](#) of the [Listed Company Manual](#) provides additional information on the timing and content of SLAPs.

Timely Alert/Material News Policy Reminder

The Exchange's Timely Alert/Material News Policy is designed to ensure that investors have access to all material news about a listed company prior to trading in its securities and that no investor can trade on the basis of news that has not yet been fully disseminated to the marketplace. In support of this Policy, [Sections 201](#) and [202](#) of the [Listed Company Manual](#) require listed companies to promptly release to the public any news or information which might reasonably be expected to materially affect the market for its securities. Listed companies may comply with the NYSE's timely alert/material news policy by disseminating material news via a press release or any other Regulation FD-compliant method.

Companies are required to call the Exchange when releasing material news during market hours. Specifically, if such news is to be released just prior to the opening at 9:30 a.m. or at any time during NYSE trading hours (i.e., between 9:30 a.m. and 4:00 p.m. Eastern Time), companies must call: i) ten minutes before the dissemination of news that is deemed to be of a material nature or that may have an impact on trading in the company's securities; or ii) at the time the company becomes aware of a material event having occurred and take steps to promptly release the news to the public. While not intended to be an exhaustive list, examples of news the Exchange would consider to be potentially material include: earnings, mergers/acquisitions, redemptions/conversions, securities offerings and pricings related to these offerings, major product launches, new patent approvals and dividend announcements. Once notified by the company, the Market Watch team will determine whether a temporary trading halt is necessary to ensure that the news has been fully disseminated to the marketplace.

Companies are directed to call the Market Watch team when releasing news during market hours. In advance of issuance, a company must also provide the Exchange with a copy of the announcement, the Regulation FD-compliant method it intends to use to disseminate the news and how the Exchange can locate the information upon publication. This information should be emailed to nysealert@nyse.com. It is important that the company's representative calling the Exchange be available during the Exchange's market hours and knowledgeable about the details of the news being issued in case questions arise. The Exchange reminds listed companies that the verbal release of material news during the course of a management presentation, investor call or investor conference that takes place during market hours is also subject to the timely alert/material new policy.

Outside of the hours set forth in the first paragraph above, companies are not required to call the Exchange in advance of issuing news, although companies should still provide a copy of material news once it is disclosed (submit via e-mail to nysealert@nyse.com).

In instances of unusual market or rumor-driven trading activity, a company is expected to contact the Exchange and promptly release to the public any news or information that may reasonably be considered to be affecting the market in its securities. Where there is no knowledge of material news, a company may be contacted by the Exchange and asked to issue a press release promptly so that the activity/rumor can be addressed for the overall market.

Please note that while a listed company must determine whether a news event is material, it is the Exchange's obligation to institute a trading halt pending dissemination of news if the Exchange believes

that news is material and the company has not yet disclosed the news in compliance with the Exchange's timely alert/material news policy. It is also the Exchange's obligation to resume trading once the news is broadly disseminated.

NYSE Contacts

egovdirect.com	212-656-4651 or egovdirect@nyse.com
Record Dates, Shareholder Meeting/Proxy Matters	Market Watch analyst at 877.699.2578 or 212.656.5414
Annual Financial Statements	See NYSE Issuer Oversight analyst contact on egovdirect.com or 212-656-4542
Corporate Governance	See NYSE Issuer Oversight analyst contact on egovdirect.com or 212-656-4542
Reliance on Laws, Customs, and Practices of Country of Domicile	See NYSE Issuer Oversight analyst contact on egovdirect.com or 212-656-5846
Supplemental Listing Applications	See NYSE Issuer Oversight analyst contact on egovdirect.com or 212-656-5846
Timely Alert/Material News Policy	Market Watch analyst at 877.699.2578 or 212.656.5414
Redemptions/Conversions Dividends	Corporate Actions analyst at 212.656.5505