

Information Memo



Number 14-07
March 10, 2014

TO: ALL MEMBERS AND MEMBER ORGANIZATIONS

FROM: NYSE REGULATION, INC.

SUBJECT: AMENDMENT TO RULES 104 AND 123C TO ALLOW DMMS TO CLOSE A SECURITY ELECTRONICALLY

This notice advises New York Stock Exchange LLC ("NYSE") and NYSE MKT LLC ("NYSE MKT") (collectively, the "Exchange") members and member organizations that the Exchange has amended Rules 104 and 123C to specify that closings may be effectuated electronically. The functionality for DMMS to close a security electronically was available beginning February 26, 2014.

Rule 104(a)(3) currently provides that DMMS have the responsibility, among other things, to facilitate the close of trading for each of the securities in which the DMM is registered as required by Exchange rules (including Rule 123C), which may include supplying liquidity as needed. Rule 104(b) further provides that DMM units have the ability to employ algorithms for quoting and trading consistent with NYSE and SEC regulations.

The Exchange recently added supplementary material to Rule 123C providing that closings may be effectuated manually or electronically. Effective February 26, 2014, DMM units are able to use algorithms to close securities electronically.

The Exchange also amended Rule 104(a)(3) to add that DMM and DMM unit algorithms will have access to aggregate order information in order to comply with their requirement to facilitate the close of trading as required by Exchange rules.¹ Rule 104(b)(iii) has been amended to add a qualifying statement that, except as provided for in Rule 104(a)(2) and new Rule 104(a)(3), the DMM unit's system employing algorithms will not have access to order information that is not publicly available.

DMMS are reminded that Rules 104(b)(i) and (v) require all functions performed by a DMM unit's algorithm to operate consistent with NYSE and SEC rules and regulations. For example, if there is interest represented in the trading crowd that must be included in the closing transaction pursuant to Rule 123C(7)(a)(iii), the DMM would need to use a manner of closing the security that assures that such interest is properly represented. DMMS are also reminded that they are not exempt from NYSE rules when using algorithms to close a security electronically, including the obligation to maintain a fair and orderly market and rules requiring Floor Official consultation or approval in connection with the close.

Operational questions regarding this Information Memo should be directed to:

- Paul Bauccio, Senior Vice President, NYSE Operations, at 212.656.2929, or

¹ The new provision in Rule 123C parallels current Rule 123D(1), which specifies that openings may be effectuated manually or electronically. Similarly, the new provision in Rule 104(a)(3) mirrors current Rule 104(a)(2), which provides that the DMM and DMM unit algorithms will have access to aggregate order information in order to comply with their requirement to facilitate the opening.

- Michael Rutigliano, Senior Vice President, NYSE Operations, at 212.656.4679.

Questions regarding the Exchange Rules cited in this notice may be addressed to:

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