



TO: NYSE Listed Company Executives
FROM: NYSE Regulation
RE: Listed Company Compliance Guidance for **NYSE Domestic Companies**
DATE: February 1, 2017

SUMMARY

Each year, the staff of NYSE Regulation prepares a guidance memo highlighting recent developments and important rules and policies applicable to companies listed on the New York Stock Exchange (“NYSE” or the “Exchange”). A complete text of Exchange rules can be found online in the [NYSE Listed Company Manual](#) (“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 rules and policies. 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.

WHAT’S NEW FOR 2017

[Listing Manager / egovdirect.com](#)

In October 2016, the Exchange began to roll out the [Listing Manager](#), an integrated technology platform that will enable listed companies to easily connect with NYSE and comply with key requirements. The modernized portal allows listed companies to manage their entire lifecycle, from pre-listing through listing, and assist in complying with NYSE listing standards. It has been designed to further enhance automation, centralization of data, and resiliency.

The [Listing Manager](#) is available on www.nyse.com in the login section. Listed companies are strongly encouraged to submit cash dividends and any form of stock distributions through this tool as the corresponding functionality in egovdirect.com has been transitioned.

The modules related to listing standards compliance are expected to be released in [Listing Manager](#) later this year. In the interim, functionality for reporting of shareholders’ meetings, changes to officers and directors, submission of annual/interim affirmations and treasury share reporting continues to be available in egovdirect.com.

Share Reporting

Please note that as of September 30, 2016, the NYSE no longer requires listed issuers to report their shares issued and outstanding. Instead, the Exchange will begin relying solely on listed company transfer agents to report this information.

Proposed Rule Changes Related to the Shortened Settlement Cycle (T+2)

On September 28, 2016, the SEC proposed amendments to Rule 15c6-1(a) to shorten the standard settlement cycle from T+3 to T+2. In order to conform its rules to the proposed amendments, the Exchange has proposed to adopt new rules to reflect “regular way” settlement as occurring on T+2 and which will, among other things, shorten the time period for which transactions in stocks shall be ex-dividend or ex-rights (the proposed rule change is available at <https://www.nyse.com/publicdocs/nyse/markets/nyse/rule-filings/filings/2016/NYSE-2016-76.pdf>).

The Exchange will not implement these proposed rules until after the final implementation of T+2. Currently, the industry target date for the transition to a T+2 settlement cycle is September 5, 2017. Please note the current target implementation date is contingent upon several factors, including approval of relevant rules and successful completion of industry-wide testing during Q2 and Q3 of 2017. The Exchange will communicate the implementation of the new rules once a compliance date has been announced by the SEC.

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IMPORTANT REMINDERS

NYSE Timely Alert/Material News Policy

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’s Market Watch Group (at 212-656-5414 or 877-699-2578) when releasing material news any time between 7:00 a.m. Eastern Time (“ET”) and the end of the NYSE trading session (4:00 p.m. ET). Specifically, 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 and provide a copy of any written form of that announcement at the same time via email to nysealert@nyse.com. While not intended to be an exhaustive list, examples of news the Exchange would consider to be potentially material include: earnings, mergers/acquisitions, executive changes, redemptions/conversions, securities offerings and pricings related to these offerings, major product launches, regulatory rulings, new patent approvals and dividend or major repurchase 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.

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 knowledgeable about the details of the news being issued in case questions arise.

Please note that the Timely Alert/Material News policy also applies in connection with the verbal release of material news during the course of a management presentation, investor call or investor conference. The fact that any such presentation is conducted in compliance with Regulation FD does not mean that the listed company is exempt from compliance with the Timely Alert/Material News policy in connection with any material news provided in the course of that presentation.

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).

Please note that while a listed company must use its own discretion to determine whether a news event is material, the Exchange should be consulted if there is any uncertainty regarding the materiality of the announcement.

In addition, between the hours of 7:00 a.m. ET and 9:25 a.m. ET, the Exchange will implement news pending trading halts only at the request of the company. Between the hours of 9:25 a.m. ET and 4:00 p.m. ET, 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 for all trading halts regardless of whether or not the halt was requested by the company.

Changes to the Date of a Listed Company's Earnings Release

Generally, listed companies publicly announce the date on which they intend to issue their quarterly earnings information. Occasionally, a company needs to change the date of its earnings release, at which time the company usually also makes a public announcement of the revised date. The Exchange believes that a change in the earnings announcement date can sometimes affect the trading price of a company's stock and/or related securities and that market participants who are in possession of this information before it is broadly disseminated may have an advantage over other market participants. Consequently, the Exchange believes that it is important for listed companies to promptly and broadly disseminate to the market non-selectively, news of the scheduling of their earnings announcements or any change in that schedule and to avoid selective disclosure of that information prior to its broad dissemination.

Other Notifications to the Exchange - Record Dates, Shareholder Meeting/Proxy Matters, Redemptions and Conversions of Listed Securities, Etc.

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 now be submitted electronically through [Listing Manager](#) for cash and stock distributions or can still be emailed to the Exchange (dividend@nyse.com). Record date notification for shareholder meetings can be submitted through egovdirect.com. Please also 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 U.S. business day.

The Exchange has no authority to waive its record date notification requirement, 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.

Proxy Materials:

Listed companies are required to solicit proxies for any annual or special meeting of shareholders. 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, 11 Wall Street – 5th Floor Mailroom, New York, NY 10005.

Broker Search Cards:

SEC Rule 14a-13 requires any company soliciting proxies in connection with a shareholder meeting to send a search card to any entity that the company knows is holding shares for beneficial owners. The purpose of this requirement is to ensure that the company prepares a sufficient number of proxy materials to enable each beneficial owner to receive a copy. Rule 14a-13 requires that the search card must be sent: (i) at least 20 business days before the record date for the annual meeting; or (ii) at such later time as permitted by the rules of the national securities exchange on which the class of securities in question is listed. NYSE rules do not contain any provision permitting a listed company to send out its broker search card less than 20 business days before the record date for its annual meeting.

Consequently, an NYSE listed company must comply with the 20 business day requirement of SEC Rule 14a-13 when sending out broker search cards in advance of its annual meeting.

Quorum Requirements for Proposals at Shareholder Meetings:

[Section 312.07](#) of the [Listed Company Manual](#) provides that, where shareholder approval is required under NYSE rules, the minimum vote that constitutes approval for such purposes is approval by a majority of votes cast (i.e., the number of votes cast in favor of the proposal exceeds the aggregate of votes cast against the proposal plus abstentions).

NYSE Rule 452, Voting by Member Organizations:

The Exchange reviews all listed company proxy materials to determine whether NYSE member organizations that hold customer securities in “street name” accounts as brokers are allowed to vote on proxy matters without having received specific client instructions.

The Exchange recommends that listed companies submit their preliminary proxy materials to the Exchange for review. Exchange staff is then able to provide a preliminary, confidential ruling (subject to a final review upon receipt of definitive materials) on the permissibility of broker voting under NYSE Rule 452 on each of the proposals included in the preliminary proxy statement. This preliminary review helps companies assess whether to include proposals in their definitive proxy statements and plan their solicitation activities. A submission of preliminary proxy materials should be marked to clearly indicate that it is in preliminary or draft form and that it is confidential.

Redemption and Conversion of Listed Securities:

Advance notice to the Exchange is required for a full call 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 or N-CSR available on or by a link through its website simultaneously with the SEC filing on EDGAR. Separately, a listed company that is not required to comply with the SEC 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 or N-CSR has been filed with the SEC;
 - 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.

Corporate Governance Requirements

Written Affirmation/CEO Certification Requirements:

All companies listed on the Exchange are required to comply with certain corporate governance standards. To facilitate reporting of compliance with these ongoing obligations, the Exchange requires that listed companies file an Annual Written Affirmation and CEO Certification each calendar year. These forms identify the Exchange's corporate governance rules and ask listed company executives to affirm their compliance. The Annual Written Affirmation and CEO Certification are due no later than 30 days after the company's annual shareholders' meeting or, if no annual meeting is held, 30 days after the company's Form 10-K is filed with the SEC.

In addition, an 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 and CEO Certification can be created and filed electronically through egovdirect.com. The forms and instructions are also available on the Exchange's [website](#).

Frequently Asked Questions ("FAQs"):

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

Annual Meeting Requirement:

[Section 302](#) of the [Listed Company Manual](#) states that a listed company must have an annual shareholders' meeting during each fiscal year. Please note that if a meeting is postponed or adjourned, the Exchange does not consider the company to have met the [Section 302](#) requirement to hold an annual meeting.

Transactions Requiring Supplemental Listing Applications

A listed company is required to file a Supplemental Listing Application ("SLAP") to seek authorization from the Exchange for a variety of corporate events including:

- Issuance (or reserve for issuance) of additional shares of a listed security;
- Issuance (or reserve 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, state of incorporation 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 a transaction. [Section 703](#) of the [Listed Company Manual](#) provides additional information on the timing and content of SLAPs. Particular attention should also be given to [Sections 303A.08](#), [312.03](#) and [313](#) of the [Listed Company Manual](#) (see [Shareholder Approval and Voting Rights Requirements](#) below).

Shareholder Approval and Voting Rights Requirements

The ability to vote on certain corporate actions is one of the most fundamental rights afforded to shareholders of companies listed on the Exchange. Among the matters on which shareholders may be entitled to vote include amendments to equity compensation plans and certain share issuances. [Sections 303A.08](#) and [312.03](#), respectively, of the [Listed Company Manual](#) outline the Exchange's shareholder approval requirements in this regard. [Section 313](#) outlines the Exchange's voting rights requirements.

The Exchange is unable to authorize transactions that violate its shareholder approval and/or voting rights rules. To avoid this undesirable outcome, listed companies are strongly encouraged to consult the Exchange prior to entering into a transaction that may require shareholder approval including, but not limited to, the issuance of securities: (i) with anti-dilution price protection features; ii) that may result in a change of control; (iii) to a related party; (iv) in excess of 19.9% of the pre-transaction shares outstanding; and (v) in an underwritten public offering in which a significant percentage of the shares sold may be to a single investor or to a small number of investors.

Listed companies are also encouraged to consult the Exchange prior to entering into a transaction that may adversely impact the voting rights of existing shareholders of the listed class of common stock, as such transactions may violate the Exchange's voting rights rule (see [Section 313](#) of the [Listed Company Manual](#)). Examples of transactions which adversely affect the voting rights of shareholders of the listed common stock include transactions which result in a particular shareholder having: (i) board representation that is out of proportion to that shareholder's investment in the company; or (ii) special rights pertaining to items that normally are subject to shareholder approval under either state or federal securities laws, such as the right to block mergers, acquisitions, disposition of assets, voluntary liquidation, or certain amendments to the company's organizational/governing documents. It is important to note that shareholder approval of a transaction does not resolve a voting rights rule violation.

FAQs about [Section 303A.08](#) (Stockholder Approval for Equity Compensation Plans) and interpretations of [Section 313](#) (Voting Rights Interpretations Under Listed Company Manual Section 313) can be found on the Exchange's [website](#).

NYSE CONTACTS

Listing Manager / egovdirect.com	212-656-4651 or ListingManager@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 Regulation analyst contact on egovdirect.com or 212-656-4542
Corporate Governance	See NYSE Issuer Regulation analyst contact on egovdirect.com or 212-656-4542
Supplemental Listing Applications	See NYSE Issuer Regulation analyst contact on egovdirect.com or 212-656-5846
Shareholder Approval, Voting Rights	See NYSE Issuer Regulation 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