

Additions underlined.
Deletions [bracketed].

NYSE MKT LLC Company Guide

Part 4—DISCLOSURE (§§401-404).

Sec. 401. OUTLINE OF EXCHANGE DISCLOSURE POLICIES

(a) *Immediate Public Disclosure of Material Information*—A listed company is required to make immediate public disclosure of all material information concerning its affairs, except in unusual circumstances (referred to as the Exchange’s “immediate release policy”). *When such disclosure is to be made shortly before the opening or during trading hours, it is essential that the [Stock Watch Department] Exchange be notified at least ten minutes prior to the announcement.*

(b) *Thorough Public Dissemination* – A listed company is required to release material information to the public by means of any Regulation FD compliant method (or combination of methods) [in a manner designed to obtain the widest possible public dissemination]. (See discussion in §§402-403)

Sec. 402. EXPLANATION OF EXCHANGE DISCLOSURE POLICIES

(a) *Immediate Public Disclosure of Material Information*

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Whenever material information is being temporarily withheld, the strictest confidentiality must be maintained, and the company should be prepared to make an immediate public announcement, if necessary. During this period, the market [action]activity of the company's securities should be closely watched, since unusual market activity frequently signifies that a "leak" may have occurred. This is one reason why it is important to keep the [company's Listing Qualifications Analyst] Exchange fully apprised of material corporate developments.

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Q. What action is required if insider trading occurs while material information is being temporarily withheld?

A. Immediate public disclosure of the information in question must be effected if the company should learn that insider trading, as defined in §402(f) has taken or is taking place. In unusual cases, where the trading is insignificant and does not have any influence on the market, and where measures sufficient to halt insider trading and prevent its recurrence are taken, exemptions might be made following discussions with the Exchange. The [company's Listing Qualifications Analyst, through the facilities of the] Exchange[*'s* Stock Watch Department,] can provide current information regarding market activity in the company's securities and help assess the significance of such trading.

(b) *Thorough Public Dissemination*

Q. What specific disclosure techniques should a company employ?

A. The steps required are as follows:

(i) *Prior to Public Disclosure.* The Exchange expects a company to [notify] call the Exchange[*'s* Stock Watch Department] at least ten minutes in advance of public disclosure of information which is non-routine or is expected to have an impact on the market for its securities to inform the Exchange of the substance of the announcement and the Regulation FD-compliant method by which the company intends to comply with the immediate release policy and to provide the Exchange with the information necessary to locate the news upon publication. When the announcement is in written form, the company must also provide the text of such announcement to the Exchange at least ten minutes prior to release of the announcement via e-mail or web-based system as specified on the Exchange's website, except in emergency situations, when notification may instead be provided by telephone and confirmed by facsimile as specified by the Exchange on its website (and the Exchange shall promptly update and prominently display the applicable information on its website in the event that it ever changes). For purposes of this Section 402(b)(i), an emergency situation includes lack of computer or internet access; a technical problem on the systems of either the listed company or the Exchange; or an incompatibility between the systems of the listed company and the Exchange. The Exchange, with the benefit of all the facts provided by the company, will be able to consider whether a temporary halt in trading, pending an announcement, would be desirable. *A temporary halt in trading is not a reflection on the company or its securities, but provides an opportunity for disseminating and evaluating the information released.* Such a step frequently helps avoid rumors and market instability, as well as the unfairness to investors that may arise when material information has reached part, but not yet all, of the investing community. Thus, in appropriate circumstances, the Exchange can often provide a valuable service to investors and listed companies by arranging for such a halt.

(ii) *At Time of Public Disclosure.* [As a minimum, a] Any public disclosure of material information should be made by means of any Regulation FD compliant method (or combination of methods). While not requiring them to do so, the Exchange encourages listed companies to comply with the immediate release policy by issuing press releases. [an announcement released simultaneously to the national business and financial news-wire services.] To ensure adequate coverage, where a listed company is satisfying the Exchange's immediate release policy by issuing a press release, that press release should be given to Dow Jones & Company, Inc., Reuters Economic Services and Bloomberg Business News. While foreign private issuers are not required to comply with Regulation FD, foreign private issuers must comply with the Exchange's immediate public disclosure policy and may do so by any method (or combination of methods) that would constitute compliance with Regulation FD for a domestic U.S. issuer.

[Concerns that distribute press releases over private networks may be extremely helpful in gaining news coverage. Two such organizations are PR Newswire and Business Wire.]

Companies may also wish to broaden their distribution to other news or broadcast media, such as those in the location of the company's plants or offices, and to trade publications. The information in question should always be given to the media in such a way as to promote publication by them as promptly as possible, i.e., by telephone, telecopy, or in writing (by hand delivery), on an "immediate release" basis. Companies are cautioned that some of these media may refuse to publish information given by telephone until it has been confirmed in writing or may require written confirmation after its publication.

Whenever difficulty is encountered or anticipated in having an announcement about a material development published, a company should contact the Exchange[*'s* Stock Watch Department], which may be able to provide assistance. Finally, if despite all reasonable efforts, the announcement has not been published by one of the national news-wire services or one of the above-mentioned [newspapers]media, the company should attempt to have the announcement disseminated through other media, such as trade, industry or business publications, or local newspapers (especially those in the area where the company's principal offices or plants are located or where its stockholders are concentrated). In cases where the announcement is of particular importance, or where unusual difficulty in dissemination is encountered, the company should consider the use of paid advertisements, a letter to stockholders, or both.

Companies may also disseminate information on[*ver* the Internet] their website, as well as via social media, provided however that a company disseminating information on its website or via social media must comply with the SEC's guidelines applicable to Regulation FD communication via websites and social media. [Information should not be made available over the Internet before the same information is transmitted to, and received by, the traditional news vendor services.]

Three copies of all public announcements should be sent to the Exchange.]

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(c) *Clarification or Confirmation of Rumors and Reports*

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(d) *Response to Unusual Market [Action] Activity*

Q. What is the significance of unusual market activity from the standpoint of disclosure?

A. Where unusual market [action] activity (in price movement, trading activity, or both) occurs without any apparent publicly available information which would account for the [action] activity, it may signify trading by persons who are acting either on unannounced material information or on a rumor or report, whether true or false, about the company. Most often, of course, unusual market activity may not be traceable either to insider trading or to a rumor or report. Nevertheless, the market [action]activity itself may be misleading to investors, who are likely to assume that a sudden and appreciable change in the price of a company's stock must reflect a parallel change in its business or prospects. Similarly, unusual trading volume, even when not accompanied by a significant change in price, tends to encourage rumors and give rise to speculative trading activity which may be unrelated to actual developments in the company's affairs.

Generally, unusual market activity will first be detected by either the [Specialist] Designated Market Maker in the company's securities or the Exchange['s Stock Watch Department], which in turn, will contact company officials to apprise them of the activity. Where unusual activity or rumors may occur, the Exchange may contact the company to inquire about any company developments that have not been publicly announced, but that could be responsible for the activity. Where the market appears to reflect undisclosed information, the Exchange will normally ask the company to make the information public immediately.

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(g) *Receipt of Written Notice of Noncompliance with a Continued Listing Requirement or Written Delisting Notice*

Q. What kinds of information should be included in the public announcement?

A. The public announcement must indicate that the Exchange has determined that the company does not meet a listing standard, or has determined to remove the company's securities listing (or unlisted trading), as applicable, and must include the specific policies and standards upon which the determination is based. In order to assist the company in the preparation of the public announcement, Exchange staff will provide the company with the Section(s) upon which its determination was based and a template for disclosure.

Q. When must the public announcement be made?

A. The public announcement must be made as promptly as possible, but no more than four business days following the company's receipt of the written notice from the Exchange. The

Exchange notes that companies should not construe the four business day time frame as a safe harbor for disclosure.

[Q. What steps must be taken before the public announcement is made?

A. The public announcement must be provided to the Exchange's Stock Watch Department at (212) 306-8383 (phone), (212) 306-1488 (facsimile) and Listing Qualifications Department at (212) 306-1331 (phone), (212) 306-5325 (facsimile) prior to public dissemination.]

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Sec. 404. EXCHANGE SURVEILLANCE PROCEDURES

In many cases, when unusual market [action] activity occurs, [Stock Watch] the Exchange is able to trace the reason for the [action] activity to a specific cause, such as recently disclosed information, recommendations by advisory services, or rumors. In certain instances, the Exchange[']s Market Surveillance Department] may also [be asked to check] contact brokerage firms if such firms or their customers are parties to unusual activity to inquire as to the source and reasons for such activity [stemming from their particular firms]. (This latter information, it should be noted, must remain confidential to the Exchange.) If no explanation of the unusual activity is revealed, [Stock Watch] the Exchange may call officials of the company to determine whether the cause of the [action] activity is known to them. If the [action] activity appears to be attributable to a rumor or report, or to material information that has not been publicly disseminated, the company is requested to take appropriate corrective action, and it may be advisable, after consultation with trading floor officials, to halt trading until such action has been taken.

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