

EXHIBIT A

Number 04-27
June 9, 2004

TO: ALL MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: GAPPING THE QUOTE (Rules 60, 79A.15, and 104)

Introduction

The NYSE auction market provides valuable opportunities to price transactions fairly to all investors in a way that truly reflects supply and demand. At the moment of that pricing, transparency of any imbalance is critical to attract participation to offset the imbalance and facilitate price discovery. In that regard, the NYSE is updating its policies to achieve greater transparency in light of faster market conditions and technology. The procedures that are being updated will provide improved opportunities for all market participants to access the NYSE market and serve customers, improving transparency in situations where gapped quotations are used.

The Exchange is modifying the Intraday Breakout Policy currently described in Information Memo 94-32 (August 9, 1994) and the 2003 Floor Official Manual (Page 38). The modification involves a new procedure for specifying the size in gap quoting situations, making the size of the gap quote 100 shares x size or size x 100 shares, instead of 100 shares x 100 shares. In addition, the new procedure shortens the reasonable period of time for the gapped quotation to remain in place in light of faster market conditions and technology.

Background

The purpose of the gap quote procedures is to provide public dissemination of an order imbalance and to minimize short-term price dislocation associated with such imbalance by allowing appropriate time for the entry of offsetting orders or the cancellation of orders on the side of the imbalance.

An imbalance may occur when the specialist receives a sudden influx of orders on the same side of the market at the same time or when there are one or more large-size orders and there is no offsetting interest. An imbalance may also occur when a member proposes to effect a one-sided block transaction at a significant premium or discount from the prevailing market.

When an imbalance exists, gap quote procedures provide that the specialist widens the spread between the bid and offer, a process known as “gapping.” In such cases, the bid or

offer price must match (“touch”) the prior sale price. Once a quotation has been gapped, it should remain in place for a reasonable time to allow interested parties to respond to the order imbalance.

A Floor Governor, Executive Floor Official or Senior Floor Official oversees and provides input into the gap quote process.

Prior Practice

Formerly, gap quote procedures provided that the specialist show the size associated with the gapped quotation as 100 x 100 and a senior-level Floor Official determine a reasonable period of time for the gapped quotation to be maintained (generally, not to exceed 5 minutes), to allow for adequate public disclosure and sufficient time to attract contra side interest.

New Procedures to Accelerate Price Discovery

In order to provide more useful information and accelerate price discovery, the Exchange has determined to update the gap quotation procedures to require that the specialist disseminate a quote size of 100 shares **on only one side** of the market. Size consistent with the order imbalance is to be shown on the other side, i.e., **100 x size or size x 100**. The 100 share side represents the specialist’s determination of the price at which the stock would trade if no contra side interest develops or no cancellations occur as a result of the gapped quotation. This determination takes into account executable orders on the book at better prices than the price of the 100 share bid or offer. The size side represents the extent of the order imbalance.

When a gapped quotation situation arises, the specialist must:

- Honor the existing firm quotation, complete all related Display Book reports, and check the status of the order imbalance;
- Gap the quotation:
 - on the side of the imbalance, make the bid or offer price, as appropriate, touch the last sale, and
 - show the size of the imbalance in that bid or offer size;
 - on the side opposite the imbalance, show the possible extent of price impact in the bid or offer price, as appropriate, and
 - make the size on that side of the market one round lot;
- Consult with a Floor Governor, Executive Floor Official or Senior Floor Official as to how to proceed.
- Promptly contact known contra-side parties.
- Continue to permit the entry and cancellation of orders in the Display Book;

The procedures provide that a gapped quotation should remain in place for a reasonable time to allow for interested parties to respond to the order imbalance. What constitutes a

reasonable time is determined by the unique circumstances of each gapped quotation situation. However, the gapped quotation generally should last at least 30 seconds unless offsetting interest is received earlier, and generally should not exceed two minutes¹, unless circumstances require otherwise.

The Floor Governor, Executive Floor Official or Senior Floor Official shall determine whether to:

- execute the orders immediately;
- direct the specialist to maintain the gapped quotation beyond 30 seconds, but no more than two minutes, unless circumstances require otherwise, in order to allow time for contra side interest to develop or cancellations to occur; or
- halt trading in the stock.

Under Exchange Rule 60(e), as described in Information Memo 03-21 (May 15, 2003), in a situation involving the use of the gap quote procedures, specialists will not be required to modify the 100 share side of the quotation to post better priced buy or sell limit orders or add to size during the reasonable gapped quote period.

Example

At 2:10 P.M., the market in XYZ is \$76.45 bid for 2,000 shares, 5,000 shares offered at \$76.50 with the last sale at \$76.47. The specialist receives a sudden influx of orders through the System and from Floor brokers to buy 370,000 shares at the market. The specialist executes a portion of the buy order imbalance against the 5,000 shares offered to honor the firm quote. 5,000 shares at \$76.50 are reported to the Consolidated Tape and the related Floor reports are issued. The specialist then gaps the quote, making the market \$76.50 bid for 365,000 shares, 100 shares offered at \$78.00. Note that this gapped quotation meets all of the requirements discussed above. The bid price touches the last sale. The size of the imbalance, which was reduced when the specialist took the offer, is published as the bid size. The offer price indicates the possible extent of the impact of the buy imbalance on the price of the stock. Lastly, the offer size is shown as 100 shares to indicate that there is insufficient interest on the sell side of the market.

¹ Rule 123D provides that with respect to a trading halt, a minimum of five minutes must elapse between the publication of the initial indication and the stock's reopening. In the event that more than one indication was published, the stock may re-open three minutes after the last indication was published, provided that at least five minutes had elapsed from the publication of the initial indication. See Information Memo 03-5 (2/27/03). These time limits guide Floor Officials as to what may be an appropriate duration of a gap quote.

Autoquote Feature

When the specialist disseminates a 100 share quote on one side of the market (100 x size or size x 100) where the 100 share side represents the specialist's bid or offer, the autoquote feature is temporarily not available on that side of the market for the limited period of the gapped quote. However, the side of the market displaying size will continue to be subject to autoquoting.

NYSE Direct+

Auto ex orders will continue to trade with and will reduce the size of the side of the market where the imbalance is being shown. Auto ex executions will not take place on the side of the market showing 100 shares.

Inappropriate Use of Manual 100 Share Market

It would not be appropriate for a specialist to repeat or continue to disseminate the manual 100 share by 100 share market as that could have the effect of not displaying or quoting a limit order (unless executed or cancelled) until after 30 seconds.

Note

Changes to the Exchange's Direct+ facility and market structure may affect the procedures described herein. However, until rule changes are submitted to the Securities and Exchange Commission for comment and review, and approval and implementation, the procedures described above will remain in place.

Questions concerning the subject of this Memo may be addressed to Jerome Reda, Director, Member Trading II, at (212) 656-5354 or Carol Krusik, Manager, Member Education, at (212) 656-4597.

/s/

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