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SEC Approves an NYSE Rule Amendment Prohibiting Release of Material News After Market Close

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On December 4, 2017, the U.S. Securities and Exchange Commission (SEC) approved a New York Stock Exchange (NYSE) rule amendment – revised Rule 202.06 – prohibiting NYSE-listed companies from releasing material news after the NYSE’s official trading closing time (NYSE Closing Time) until the earlier of (i) the publication of a company’s official closing price on the NYSE and (ii) five minutes after the NYSE Closing Time. The rule amendment, which became effective on December 7, 2017, is intended to reduce price discrepancies between the official closing price on the NYSE and the prices of execution in other exchanges and non-exchange venues.

Trading on the NYSE ends at 4:00 p.m. Eastern Time, except for certain days on which trading closes early at 1:00 p.m. Eastern Time. After trading ends at the NYSE Closing Time, the designated market maker facilitates the close of trading in a closing auction, which typically takes no longer than five minutes. If an NYSE-listed company whose securities are traded after the NYSE Closing Time on other exchanges or non-exchange venues releases material news after the NYSE Closing Time but before the closing auction on the NYSE is completed, there can be a significant price discrepancy in nearly contemporaneous trades between the closing price of such securities on the NYSE and the price in which such securities are traded on other exchanges or non-exchange venues. The price discrepancy can increase the risk of market disruption and reduce investor confidence in trading on the NYSE, given that trade orders cannot be cancelled or modified after the NYSE Closing Time to take into account the material news, even though the NYSE closing price may not yet have been established by the closing auction process.

Prior to the rule amendment, Rule 202.06 of the NYSE *Listed Company Manual* merely recommended that companies delay the issuance of material news after the NYSE Closing Time until the earlier of (i) the publication of such company’s official closing price on the NYSE and (ii) fifteen minutes after the NYSE Closing Time.

The only exception to the rule amendment prohibition is when a company makes an unintentional selective disclosure of material public information and must therefore promptly make a public disclosure of such information in order to comply with Regulation FD under the *Securities Exchange Act of 1934*, as amended. The revised Rule 202.06 continues to include the foregoing recommendation to NYSE-listed companies.

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