

NYSE Now Requires 10-Minute Advance Notice of Dividend and Stock Distribution Announcements, Even Outside of Trading Hours

On August 14, 2017, the US Securities and Exchange Commission approved amendments to the New York Stock Exchange (NYSE) Listed Company Manual (NYSE Manual) to require listed companies to provide notice to the NYSE at least 10 minutes before making any public announcement with respect to a dividend or stock distribution, including when the announcement is being made outside of the NYSE's trading hours.¹ Prior to the amendments, such advance notice to the NYSE was needed only if the public announcement was made between 7:00 a.m. and 4:00 p.m. Eastern time. The NYSE has stated that it intends to have staff available at all times to immediately review dividend and stock distribution notices, regardless of the time or day of the week that they are provided.

Specifically, the NYSE amended Section 202.06(B) of the NYSE Manual to explicitly state that listed companies must comply with the immediate news release policy with respect to all announcements relating to a dividend or stock distribution.² As the NYSE explained when the amendment was proposed, the purpose of this amendment is to emphasize its "consistent interpretation of that rule as requiring listed companies to comply with the immediate release policy with respect to all announcements relating to a dividend or stock distribution."³

Section 204.12 of the NYSE Manual continues to require that listed companies give the NYSE notice of a dividend or stock distribution as soon

as possible after declaration. However, this section now specifies that such notice must be provided no later than 10 minutes before the public announcement to the news media (including when the notice is to be issued outside of trading hours) rather than the previous deadline of giving notice simultaneously with the public announcement.

No change has been made to the requirement to notify the NYSE at least 10 days in advance of a dividend or stock distribution record date, which is set forth in Section 204.21 of the NYSE Manual. However, a new sentence has been added to this section indicating that, in the case of a dividend or stock distribution record date, the notice must be provided to the NYSE at least 10 minutes before the issuance of any public announcement, including when the notice is issued outside of trading hours.

The amendments did not change the requirement that the 10-minute advance notice be given by telephone to the NYSE's Market Watch & Proxy Compliance Team, with a copy of the press release or other public announcement sent via email.

Practical Considerations

NYSE-listed companies should communicate this new advance notice requirement for dividends and stock distributions and related record dates to the appropriate personnel in their investor relations, media and law

departments, making clear that any public announcement for such events must now be delayed until at least 10 minutes after the requisite notice has been given to the NYSE.

NYSE-listed companies also should consider whether it would be appropriate to amend their disclosure controls and procedures, or implement a new disclosure control and procedure, to reflect this revised notice requirement.

For more information about the topics raised in this Legal Update, please contact the author, Laura D. Richman, at +1 312 701 7304, any of the following lawyers or any other member of our Corporate & Securities practice.

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Endnotes

- ¹ See <https://www.sec.gov/rules/sro/nyse/2017/34-81393.pdf>.
- ² For a marked copy of the amendments to the NYSE Listed Company Manual, see <https://www.sec.gov/rules/sro/nyse/2017/34-81021-ex5.pdf>.
- ³ See <https://www.sec.gov/rules/sro/nyse/2017/34-81021.pdf>.