

## NYSE 2024 Listed Company Compliance Guidance Memo: New Rules and Important Reminders

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On January 31, 2024, the New York Stock Exchange (the NYSE or the Exchange) issued its annual [Listed Company Compliance Guidance Memo for 2024](#) (the Memo). The Memo describes new rules and important reminders for all NYSE-listed companies, with any rule or policy distinctions for domestic versus foreign private issuers (FPIs) identified within.

To access a complete text of the Exchange rules, please see the [NYSE Listed Company Manual](#) (LCM).

### WHAT'S NEW

#### Recovery of Erroneously Awarded Compensation

- Required to have in place policies and procedures for recovery of erroneously awarded compensation, subject to limited exceptions.

#### Sales of Securities to Passive Shareholders

- LCM Section 312.03(b)(i) is limited in application to sales to a director, officer, controlling shareholder or member of a control group, or any other substantial security holder of the company that has an affiliated person who is an officer or director of the company (each, an Active Related Party) and is no longer applicable to passive shareholders that do not meet the definition of an Active Related Party.

### Shortened Settlement Cycle (T+1)

- Settlement cycle shortened from two business days after the trade date (T+2) to one business day after the trade date (T+1), which will go into effect on May 28, 2024. Please see [here](#) for a more detailed discussion in an earlier blog post.
- No securities will become ex-dividend on May 28, 2024. Ex-dividend trading dates during the transition period are set as follows: securities paying a dividend with a record date of May 28 will be traded ex-dividend on May 24 and securities paying a dividend with a record date of May 29 will be traded ex-dividend on May 29.

## IMPORTANT REMINDERS: ALL ISSUERS

### NYSE Timely Alert/Material News Policy

- Required to promptly release to the public any news that might reasonably be expected to materially affect the market for their securities. Comply by disseminating news via a press release or any other Regulation FD-compliant method.
- Contact the Exchange's Market Watch Group 10 minutes before dissemination of material news when planning to disseminate between 7:00 a.m. ET and 4:00 p.m. ET or promptly upon becoming aware of a material event having occurred. Provide a copy of the material announcement and information about its dissemination.
- Not required to call the Exchange outside the hours of 7:00 a.m. ET and 4:00 p.m. ET but should provide a copy of the news once it is disclosed.

### Publishing Material News After the Close

- Prohibited from publishing material news after the official closing time for the Exchange's trading session until the earlier of 4:05 p.m. ET or the publication of the official closing price.

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

- Promptly and broadly disseminate any date change to the market non-selectively.

<b>Annual Meeting Requirement</b>	<ul style="list-style-type: none"> <li>• Required to have an annual shareholders' meeting during each fiscal year. This applies to all issuers with voting stock, as well as those with non-voting stock if required under their governing documents. If a meeting is postponed or adjourned, the company has not complied.</li> <li>• FPIs can follow their home-country practice in lieu of complying with the foregoing requirement if their home countries' laws differ.</li> </ul>
<b>Record Date Notification</b>	<ul style="list-style-type: none"> <li>• Required to notify the Exchange at least 10 calendar days in advance of all record dates. Provide another advance notice of at least 10 calendar days if record date changes. Publication by press release or SEC filing does not constitute notice.</li> </ul>
<b>Share Reporting</b>	<ul style="list-style-type: none"> <li>• Required to report shares no later than the 10th day following the end of each calendar quarter.</li> </ul>
<b>Corporate Action Notifications</b>	<ul style="list-style-type: none"> <li>• Required advance notice to the Exchange and public dissemination via a press release or another Regulation FD-compliant method for any corporate action affecting a listed security. Such announcement should be issued at least 10 calendar days in advance.</li> <li>• Required to provide notice of redemption or conversion of a listed security at least 15 calendar days in advance.</li> </ul>
<b>DRS Eligibility</b>	<ul style="list-style-type: none"> <li>• Required that all listed securities be made eligible for a direct registration system (DRS) operated by a securities depository.</li> </ul>
<b>Requirements for Annual Reports</b>	<ul style="list-style-type: none"> <li>• If required to file with the SEC an annual report</li> </ul>

	<p>that includes audited financial statements, then must simultaneously make such annual report available to shareholders on or through the company's website.</p> <ul style="list-style-type: none"> <li>• If not required to comply with the SEC proxy rules, then must post notice on the company's website to provide all holders the ability to receive a copy of the complete audited financial statements. Required to also issue a press release.</li> </ul>
<b>Annual and Interim Written Affirmations of Compliance with Exchange Corporate Governance Requirements</b>	<ul style="list-style-type: none"> <li>• Required to file an Annual Written Affirmation (AWA) each calendar year.</li> <li>• For domestic companies, the AWA is 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 annual report is filed with the SEC. Required to also submit an Annual CEO Certification, incorporated in the AWA.</li> <li>• FPIs are required to file an AWA 30 calendar days after the company's annual report is filed with the SEC.</li> <li>• Required to file an Interim Written Affirmation (IWA) within five business days after any triggering event. Domestic companies are not required to submit an IWA for changes that occur within 30 days after the annual meeting if they are already included in the AWA.</li> </ul>
<b>Change in Executive Officers</b>	<ul style="list-style-type: none"> <li>• Prompt notice required if change in executive officers.</li> </ul>
<b>Transactions Requiring Supplemental Listing Applications</b>	<ul style="list-style-type: none"> <li>• Required to file a Supplemental Listing Application to seek authorization for a variety of corporate events.</li> </ul>
<b>Related-Party Transactions</b>	<ul style="list-style-type: none"> <li>• A company's audit committee, or another independent body of the board of directors, must conduct a reasonable prior review and oversight of all related-party transactions for potential conflicts of interest and prohibit such a transaction if it determines it to be inconsistent</li> </ul>

with the interests of the company and its shareholders.

## IMPORTANT REMINDERS: DOMESTIC ISSUERS

### Broker Search Cards

- Required to send a search card to any entity that the company knows is holding shares for beneficial owners when soliciting proxies in connection with a shareholder meeting. Required that the search card be sent at least 20 business days before the record date for the annual meeting.

### NYSE Rule 452, Voting by Member Organization

- Recommended to submit preliminary proxy materials for review because the Exchange is then able to assess the permissibility of broker voting.

### Shareholder Approval and Voting Rights Requirements

- Recommended to consult the Exchange prior to entering into a transaction that may require shareholder approval and/or adversely affect the voting rights of existing shareholders.

### Voting Requirements for Proposals at Shareholder Meetings

- Where shareholder approval is required, the minimum vote that constitutes approval for such purposes is approval by a majority of votes cast.

## IMPORTANT REMINDERS: FPIS

### FPI Semi-Annual Reporting

- Required to submit a Form 6-K containing semi-annual unaudited financial information no later than six months following the end of the company's second fiscal quarter.

Winston's Capital Markets and Securities Law Watch will continue to provide updates on new rulemaking and post additional updates as they become available.

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Authors

Michael J. Blankenship

J. Eric Johnson

Ben D. Smolij

John P. Niedzwiecki

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Michael J. Blankenship



J. Eric Johnson



Ben D. Smolij



John P. Niedzwiecki

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