

Company-Related Actions

New Electronic System for Submitting and Processing Company-Related Actions for Non-Exchange Listed Securities Under Rule 6490

Effective Date: March 14, 2011

Executive Summary

Beginning March 14, 2011, issuers, American Depositary Receipt (ADR) depositary banks and other parties that provide notice of company-related actions to FINRA under Rule 6490 must use a new electronic system to provide such notice to FINRA. As of this effective date, FINRA will no longer accept paper copies of the Company-Related Action Notification Forms.

The new electronic Company-Related Action Forms will be available on March 14, 2011, via www.finra.org/upc/forms.

The text of [FINRA Rule 6490](#) is available on FINRA's website.

Questions regarding this *Notice* should be directed to:

- ▶ FINRA Operations at (866) 776-0800, Option 1; or
- ▶ Kosha K. Dalal, Associate Vice President and Associate General Counsel, Office of General Counsel, at (202) 728-6903.

Background & Discussion

FINRA Rule 6490 (Processing of Company-Related Actions), which became effective on September 27, 2010,¹ codifies the requirements in SEA Rule 10b-17 for issuers of a class of publicly traded over-the-counter (OTC) securities to provide timely notice to FINRA of certain corporate actions (e.g., dividend or other distribution of cash or securities, stock split or reverse split, or a rights or subscription offering). Generally (pursuant to SEA Rule 10b-17), issuers must provide notice at least 10 days prior to the record date for the corporate action. Issuers must also notify FINRA of certain other corporate actions (e.g., the issuance or change of trading symbols, mergers or bankruptcy) no later than 10 days prior to the effective date of the company action.

February 2011

Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Senior Management
- ▶ Systems
- ▶ Trading and Market Making

Key Topic(s)

- ▶ Company-Related Actions
- ▶ Dividends
- ▶ Fees
- ▶ Non-Exchange Listed Securities
- ▶ Over-the-Counter Trading
- ▶ Stock Splits

Referenced Rules & Notices

- ▶ FINRA Rule 6490
- ▶ Regulatory Notice 10-38
- ▶ SEA Rule 10b-17
- ▶ UPC Rules

Issuers must complete the required forms and pay the applicable fees within such time periods or they will be subject to late fees and delayed processing of documents to announce corporate actions.

Under Rule 6490, FINRA's Operations Department has the authority to request other documents that may be necessary to verify information provided on the forms. The Operations Department may, in its discretion, conduct detailed reviews of submissions on a case-by-case basis. Moreover, the rule authorizes FINRA not to process a request to announce a corporate action if it determines that the request is deficient and not processing is necessary for the protection of investors and the public interest, and to maintain fair and orderly markets.

Currently, issuers and other parties submit notifications of company-related actions under Rule 6490 by completing the appropriate Company-Related Action Notification Form from FINRA's website and then submitting a paper copy of it to the Operations Department. On March 14, 2011, issuers and other parties must begin using FINRA's new electronic system to provide these notifications. As of this date, FINRA will no longer accept paper copies of Company-Related Action Notification Forms.

The new system offers enhanced functionality that will give issuers and other parties:

- ▶ the ability to complete Company-Related Action Forms electronically, including the ability to amend or update the form prior to submission;
- ▶ a unique case number for each company-related action to allow for better tracking;
- ▶ the ability to create templates for frequently submitted information;
- ▶ more streamlined form completion, as the system will automatically direct the issuer or other party only to necessary sections of the form based on the nature of the company-related action notification being submitted; and
- ▶ a separate processing system for ADR company-related action notifications for ADR depository banks.

New Steps for Submitting Company-Related Actions

As of March 14, 2011, an issuer or other duly authorized representative that is obligated to provide notice of a company-related action to FINRA must follow these steps:

1. Complete and submit the appropriate electronic Company-Related Action Notification Form at least 10 days prior to the record date or effective date (as applicable) for the company-related action. **On March 14, the electronic forms and instructions will be available via FINRA's website at www.finra.org/upc/forms.**
2. Ensure that the issuer's duly authorized transfer agent simultaneously signs and submits a completed "Transfer Agent Verification Form" to FINRA's Operations Department as required by the Company-Related Action Form.

3. Attach supporting documentation (e.g., copies of Board resolutions authorizing the company-related action, amendments to charters of incorporation) as required by the Company-Related Action Form (which may be attached electronically with the initial submission, or may be submitted subsequently in paper format or by email).
4. Pay all applicable fees, including late fees, as prescribed on the Company-Related Action Notification Form.
5. A unique, identifying case number will be assigned by the Operations Department to each request to process documentation for a Company-Related Action and must be prominently placed on all future submissions, notices and correspondence from the issuer or its duly authorized representative to FINRA relating to the action.

FINRA believes the new electronic system will make compliance with Rule 6490 more efficient. In addition, issuers and other parties that submit corporate action requests will have expanded payment options under the new system for submission of the required Rule 6490 fees that will allow payment by credit card, PayPal or ACH.

Endnotes

- 1 See Securities Exchange Act (SEA) Release No. 62434 (July 1, 2010; 75 FR 39603 (July 9, 2010); SR-FINRA-2009-089 (Order Approving Proposed FINRA Rule 6490 (Processing of Company-Related Actions) to Clarify the Scope of FINRA's Authority When Processing Documents Related to Announcements for Company-Related Actions for Non-Exchange Listed Securities and To Implement Fees for Such Services). See also *Regulatory Notice 10-38* (Obligation of Issuers to Provide Notice of Company-Related Actions) (August 2010).