

MEMORANDUM

TO: Members, Member Organizations, Participants, Participant Organizations

FROM: Richard S. Rudolph, Vice President and Counsel
Legal Department

DATE: July 21, 2008

RE: Short Sales
Securities and Exchange Commission (“SEC” or “Commission”)
Issues Guidance Regarding the Commission’s Emergency Order
Concerning Short Selling

The SEC has issued a document entitled “Division of Trading and Markets: Guidance Regarding the Commission’s Emergency Order Concerning Short Selling,” which provides a series of Frequently Asked Questions (“FAQs”) relating to the Emergency Order and the Commission’s responses thereto. A copy of the document is attached to this memorandum. The document can also be found on the Commission’s website at:

www.sec.gov/divisions/marketreg/emordersshortsalesfaq.htm

Of note, **Question 4** describes how the requirement to borrow or arrange to borrow securities applies to options exercises and assignments. Specifically, any person that sells a security short pursuant to the exercise of a put option (including automatic exercises), where the exercise is not in connection with hedging activities by an options market maker, must comply with all the requirements of the Order. The exercise of a put option in a market maker account is exempt from the borrow or arrangement-to-borrow requirement **but not from the delivery requirement**.

Questions concerning this memorandum may be addressed to Rick Rudolph in the Phlx Legal Department at (215) 496-5074.