

MEMORANDUM

TO: Members and Member Organizations

FROM: John Dayton

DATE: July 2, 2007

RE: Elimination of the Short Sale Price Test

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The Securities and Exchange Commission (“Commission”) has eliminated the Short Sale Price Test effective July 6, 2007. In addition the Commission has eliminated any Short Sale Price Test imposed by any self-regulatory organization effective July 6, 2007. The Commission release regarding this change is located at the following web site: <http://www.sec.gov/rules/final/2007/34-55960.pdf>

**Changes to XLE**

The Short Sale Price Test prohibited an order in an equity security that was marked “sell short” from being executed unless it was executed (A) at a price above the price at which the immediately preceding sale was effected (plus tick), (B) at the last sale price if it is higher than the last different price (zero-plus tick) or (C) pursuant to an exception to the Short Sale Price Test. XLE, the Exchange’s electronic equity trading system, follows the Short Sale Price Test for securities that are listed on any exchange except Nasdaq. Phlx has an exemption from the application of the Short Sale Price Test for Nasdaq listed securities.

Therefore, through July 5, 2007, XLE will continue to apply the Short Sale Price Test to orders marked “sell short” in securities that are listed on any exchange except Nasdaq. **Beginning on July 6, 2007, no Short Sale Price Test will be applied on any orders in any securities traded on XLE.**

**On-going Marking and Locate Requirements**

**However, it is important to note that after July 5, 2007, all XLE Participants must continue to mark all sell orders submitted to XLE as either “long” or “short.”** Failure to properly mark sell orders as “long” or “short” will continue to be a violation of Phlx Rules and the Federal Securities Laws.

In addition, the requirements under Regulation SHO relating to locating securities to borrow and the definition of a “long” securities positions continue to apply. Note however, that the Commission has proposed elimination of the grandfather exemption and changes to the Options Market Maker exemptions to the locate rule. Such exemptions will be the subject of a later memo to members.

Questions regarding the Elimination of the Short Sale Price Test may be directed to John Dayton at (215) 496-5162. Questions regarding XLE functionality may be directed to the XLE Help Desk at (215) 496-5311 or 1-877-678-PHLX.