

MEMORANDUM

TO: Members and Member Organizations

FROM: John Dayton

DATE: September 20, 2007

RE: Approval of Expanded Definition of Common Stock

The Exchange has received approval from the Securities and Exchange Commission for a proposed rule change, SR-Phlx-2007-56, which provides for an expanded definition of the term “common stock” as used in Phlx Rules 800-899. The term common stock is typically used to refer a security issued by corporations in the United States, whose holders have a residual right to the corporation. However, at times, another name is given to this security or this type of security is not issued by a corporation.¹ Phlx believes that the expanded language reflects the fact that the term common stock is not always given to a security that has the characteristics of a common stock or that the issuer of this type of security is not a corporation.

By adopting this new expanded definition of common stock, Phlx would be permitted to list and trade, pursuant to unlisted trading privileges (“UTP”), securities of issuers that have the characteristics of common stock, even though the security is not designated as common stock. Phlx has listing standards for common stock.² The listing standards set forth minimum quantitative requirements for both the issuer and the security, and standard for the security’s voting rights. However Phlx’s listing standards for common stock did not apply to certain securities covered by the expanded definition of common stock adopted herein. With the adoption of the expanded definition of common stock, the current listing standards for common stock in Rule 803(a) would apply to such securities and accordingly such securities would be eligible for trading pursuant to UTP. Further, Phlx will apply the same quantitative criteria in Phlx Rule 803(a) to an issuer, and its security designated as common stock, applying to list under this expanded definition of common stock as it would to a corporation listing its common stock. The rule text is attached.

¹ For example, the Blackstone Group, L.P., a limited partnership, recently listed their common units representing limited partner interests on the New York Stock Exchange (“NYSE”). However, the NYSE web site page on Blackstone Group, L.P., <http://www.nyse.com/about/listed/bx.html>, describes the security as common stock.

² See Phlx Rule 803(a).

Questions regarding the proposed rule change may be directed to John Dayton at (435) 783-6415. Questions regarding Listing and UTP may be directed to Lori Mann at (215) 496-5472. Questions regarding XLE functionality may be directed to the XLE Help Desk at (215) 496-5311 or 1-877-678-PHLX.

Rule Text

Underlining indicates additions; brackets indicate deletions

Definitions

Rule 800. [Reserved.]The terms defined herein shall have the meanings specified herein for all purposes in Rules 800-899, unless the context of a rule or regulation requires otherwise.

(a) The term “Common Stock” or “common stock” shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which by statute or by its terms, is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).