

January 29, 2009

New York Stock Exchange Temporarily Lowers Market Capitalization Requirement

On January 22, 2009, the New York Stock Exchange filed a rule change with the SEC to lower temporarily the minimum average global market capitalization requirement under Section 802.01B of the NYSE Listed Company Manual from \$25 million to \$15 million. The NYSE has asked the SEC to waive the 30-day operative delay period, which, if granted as expected, will make the rule effective immediately. The temporary standard will remain in effect until April 22, 2009.

Under Section 802.01B, the NYSE will promptly delist any company if the company's average global market capitalization over a consecutive 30 trading-day period is less than \$25 million, irrespective of the original listing standard under which the company listed. The cure procedures described in Sections 802.02 and 802.3 are not available to companies that fall below this standard.

Under the temporary rule change, until April 22, 2009, Section 802.01B will only apply to companies that fall below the minimum market capitalization requirement of \$15 million. Companies that have market capitalization between \$25 million and \$15 million will benefit from this rule change to the extent they are not otherwise subject to suspension under the NYSE's other continued listing requirements. The lowered \$15 million standard will apply to all companies

for which the NYSE has not announced a suspension of trading pending delisting by January 22, 2009. This includes any company whose suspension under the \$25 million minimum has been stayed pending appeal and which is trading on the NYSE pending the outcome of the appeal process. All of the other NYSE continued listing requirements will remain in effect during this period.

The NYSE has elected to lower temporarily the standard rather than implement a complete suspension of the standard similar to the Nasdaq temporary suspension of its market capitalization requirement, because it continues to believe that companies whose market capitalization fall below \$15 million are not suitable for continued listing on the NYSE.

Although the rule change is expected to be effective immediately, comments on the rule change may be submitted to the SEC until 21 days after the date the proposal is published in the Federal Register. Information on submitting comments to the SEC can be found on the SEC's website at <http://www.sec.gov/rules/submitcomments.htm>.

Our client alerts are for general informational purposes and should not be regarded as legal advice. If you would like additional information or have any questions, please contact:

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