



## **Amendment to NYSE Rule 452 to Eliminate Broker Discretionary Voting on Executive Compensation Matters:**

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In accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), on August 26, 2010 New York Stock Exchange LLC ("NYSE") filed a proposed rule change with the Securities and Exchange Commission (the "SEC") to prohibit NYSE member organizations from voting uninstructed shares if the matter voted on relates to executive compensation. On September 9, 2010, the SEC published a notice to solicit comments on the proposed rule change. Because the Dodd-Frank Act does not provide for a transition phase, the SEC approved the proposed rule change on an accelerated basis. The rule change, as proposed, was effective immediately.

Under current NYSE and SEC proxy rules, brokers must deliver proxy materials to beneficial owners and request voting instructions from such beneficial owners except where brokers have discretionary voting power. Prior to the rule change, Rule 452 provided that brokers were permitted to cast votes on some matters, including some executive compensation proposals, if voting instructions were not received from the beneficial owners of the stock by the tenth day preceding the meeting date. Rule 452 was amended last year to eliminate broker discretion for elections of directors, even for uncontested elections.

The Dodd-Frank Act requires national securities exchanges to eliminate broker discretionary voting on matters related to executive compensation. Accordingly, the proposed rule change amends Rule 452 and corresponding NYSE Listed Company Manual Section 402.08 to prohibit NYSE member organizations from giving or authorizing a proxy to vote without instructions from the beneficial owner when the matter to be voted upon relates to executive compensation.

A matter relating to executive compensation would include, among other things, (i) an advisory vote to approve the compensation of executives, (ii) a vote on whether to hold such an advisory vote every one, two or three years, and (iii) an advisory vote to approve any type of compensation (whether present, deferred, or contingent) that is based on or otherwise relates to an acquisition, merger, consolidation, sale or other disposition of all or substantially all of the assets of an issuer and the aggregate total of all such compensation that may be paid or become payable to or on behalf of an executive officer. The proposed rule change clarifies that NYSE member organizations may not give or authorize a proxy to vote without instructions on a matter relating to executive compensation, even if such matter would otherwise qualify for an exception from the requirements of Item 12, Item 13 or another Item under Rule 452 and corresponding Listed Company Manual Section 402.08.

Despite the immediate effectiveness of the amendment, the SEC is still seeking comments on the rule change, to be submitted to the SEC on or before October 6, 2010.