

Covered Person serves as a principal, director or officer of a Member Organization, any Seat Transaction by that Member Organization, without more, has the potential for violating the duties described in this Code of Conduct. Seat Transactions by such Member Organizations are subject to review by the Special Committee.

(b) If the Special Committee permits the Covered Person or Member Organization to proceed with a transaction, in accordance with the procedures provided herein, the Covered Person and/or Member Organization nonetheless retains ultimate responsibility for determining whether to proceed with the Seat Transaction and what their disclosure obligations are to the other party in the Seat Transaction. The decision of the Special Committee is for the sole benefit of the Exchange, and is not intended to insulate the Covered Person or Member Organization from responsibility for their conduct in connection with a Seat Transaction under any applicable law. This Seat Transaction Policy is limited to whether the Covered Person or Member Organization's conduct complies with this Code of Conduct and does not purport to affect the rights and obligations of Covered Persons, Member Organizations and others under applicable law and/or contract.

2. Authority to Review Seat Transactions for Compliance with Code of Conduct

The Board of Governors has established a Special Committee on Seat Transactions ("Special Committee"), which shall have full authority to review Seat Transactions by Covered Persons and associated Member Organizations. Every Covered Person and any associated Member Organization shall cooperate fully with any such review. The Special Committee may initiate a review of a Seat Transaction at the request of the Covered Person or associated Member Organization prior to the consummation of the Seat Transaction. The Special Committee may also initiate a review of a Seat Transaction at the direction of the Board of Governors, the Executive Committee, or on its own initiative.

3. Special Committee Procedures

(a) The Special Committee shall have three members, all of whom are Governors and at least one of whom is a Public Governor. The Special Committee's decisions are governed by Section 10-3(a) of the Phlx By-Laws. In addition, the Board of Governors directs that at least one of the members making any quorum be a Public Governor. At

the time a Seat Transaction is contemplated, a Covered Person is obliged to notify the Board of Governors by contacting, in writing, the General Counsel, Deputy General Counsel, Corporate Secretary, or Assistant Secretary of any pending Seat Transaction. The Special Committee shall convene promptly after such notification to review the Seat Transaction. The Special Committee shall make all reasonable efforts to respond to the Covered Person rapidly and within a time frame requested by the Covered Person. It is understood that in some cases the Special Committee will be asked to review a Seat Transaction within 24 hours of notification by the Covered Person. In any case, the Special Committee must either render a decision, conduct an interview with the Covered Person, or request additional information from the Covered Person within 15 business days from the time of request. If the Special Committee conducts an interview with the Covered Person or requests additional information from the Covered Person, then the Special Committee must render a decision within 30 business days from the later to occur of (i) the interview, or (ii) if further information is requested by the Special Committee; all requested information is supplied to the Special Committee, provided that a Covered Person may waive compliance with these deadlines. The Special Committee shall render its decision, in writing, to the Covered Person or Member Organization, as well as to the Board of Governors, in regard to whether the proposed Seat Transaction complies with this Seat Transaction Policy and the Code of Conduct. All decisions of the Special Committee may be appealed to the Board of Governors by an aggrieved Covered Person or Member Organization by written notice filed with the Corporate Secretary within thirty (30) days of such Special Committee decision.

(b) The Special Committee is authorized to interview the Covered Person and others in the associated Member Organization involved in a Seat Transaction. The Special Committee shall determine whether the information in the possession of the Covered Person or Member Organization is Confidential Information as defined in the Code of Conduct. The Special Committee shall then determine whether such Confidential Information is Material Confidential Information. The Special Committee shall determine whether any Material Confidential Information must be disclosed in connection with the Seat

Transaction and, if so, what Material Confidential Information should be disclosed. The Special Committee shall also determine whether an agreement protecting the confidentiality of such Material Confidential Information and which names the Exchange as an intended third-party beneficiary should be in place between the Covered Person or the Member Organization and the other party to the Seat Transaction prior to the disclosure. The Special Committee is authorized to develop general standards and procedures in connection with its evaluation of Seat Transactions by Covered Persons.

(c) If the Special Committee determines that Material Confidential Information should not be disclosed, it may prohibit the Covered Person or Member Organization from proceeding with the transaction until such time as the Material Confidential Information is no longer confidential or material or until such time as the Material Confidential Information may be disclosed. The determination by the Special Committee (including, without limitation, the Special Committee's views concerning the sufficiency or insufficiency of a Member Organization's Chinese Wall arrangements for purposes of this policy, as described in section 4 below) is in no way a legal determination as to whether the Confidential Information is material from the point of view of federal or state law (e.g., under the federal securities laws or state common law concerning fraud or misrepresentation) or whether the Covered Person or Member Organization would have any liability to a party other than the Exchange for proceeding with a Seat Transaction. Covered Persons and Member Organizations should be reminded that they should consult with their own counsel about all matters arising from Seat Transactions when the Covered Person is in possession of Confidential Information.

4. Scope of Special Committee's Jurisdiction

The Special Committee is authorized to render binding decisions regarding Seat Transactions where a Covered Person or an associated Member Organization is involved. The Special Committee's determination shall be limited to: (1) Whether a Seat Transaction may proceed without any disclosure of Material Confidential Information; (2) whether the Member Organization involved in the Seat Transaction has a "Chinese Wall" or information barrier in place to prevent disclosure of Material Confidential Information and, if so, whether such