

Added text underlined;
Deleted text in [brackets].

NYSE Listed Company Manual

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312.03 Shareholder Approval

Shareholder approval is a prerequisite to issuing securities in the following situations:

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(b) Shareholder approval is required prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, in any transaction or series of related transactions, to:

- (1)** a director, officer or substantial security holder of the company (each a "Related Party");
- (2)** a subsidiary, affiliate or other closely-related person of a Related Party; or
- (3)** any company or entity in which a Related Party has a substantial direct or indirect interest;

if the number of shares of common stock to be issued, or if the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either one percent of the number of shares of common stock or one percent of the voting power outstanding before the issuance.

However, if the Related Party involved in the transaction is classified as such solely because such person is a substantial security holder, and if the issuance relates to a sale of stock for cash at a price at least as great as [each of the book and market value of the issuer's common stock] the Minimum Price, then shareholder approval will not be required unless the number of shares of common stock to be issued, or unless the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either five percent of the number of shares of common stock or five percent of the voting power outstanding before the issuance.

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(c) Shareholder approval is required prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, in any transaction or series of related transactions if:

(1) the common stock has, or will have upon issuance, voting power equal to or in excess of 20 percent of the voting power outstanding before the issuance of such stock or of securities convertible into or exercisable for common stock; or

(2) the number of shares of common stock to be issued is, or will be upon issuance, equal to or in excess of 20 percent of the number of shares of common stock outstanding before the issuance of the common stock or of securities convertible into or exercisable for common stock.

However, shareholder approval will not be required for any such issuance involving:

- any public offering for cash;
- any bona fide private financing, if such financing involves a sale of:
 - common stock, for cash, at a price at least as great as [each of the book and market value of the issuer's common stock] the Minimum Price; or
 - securities convertible into or exercisable for common stock, for cash, if the conversion or exercise price is at least as great as [each of the book and market value of the issuer's common stock] the Minimum Price.

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312.04 For the Purpose of Section 312.03

For the purpose of Section 312.03:

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(i) Minimum Price” means a price that is the lower of: (i) the Official Closing Price immediately preceding the signing of the binding agreement; or (ii) the average Official Closing Price for the five trading days immediately preceding the signing of the binding agreement.

(j) [“Market value”] “Official Closing Price” of the issuer's common stock means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the [entering into] signing of a binding agreement to issue the securities. For example, if the transaction is [entered into] signed after the close of the regular session at 4:00 pm Eastern Standard Time on a Tuesday, then Tuesday's official closing price is used. If the transaction is [entered into] signed at any time between the close of the regular session on Monday and the close if the regular session on Tuesday, then Monday's official closing price is used. [Please note that an average price over a period of time is not acceptable as "market value" for purposes of Section 312.03.]

[(j)](k) The issuance of shares from treasury is considered an issuance of shares for purposes of Section 312.03. (See Section 703.01, Part 1, of the Listed Company Manual regarding required notice to the Exchange of issuance of shares from treasury.)

[(k)](l) "Early Stage Company" means a company that has not reported revenues greater than \$20 million in any two consecutive fiscal years since its incorporation and any Early Stage Company will lose that designation at any time after listing on the Exchange that it files an annual report with the SEC in which it reports two consecutive fiscal years in which it has revenues greater than \$20 million in each year.

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