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NYSE Listed Company Manual

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303A.08 Shareholder Approval of Equity Compensation Plans

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Definition of Equity-Compensation Plan

An "equity-compensation plan" is a plan or other arrangement that provides for the delivery of equity securities (either newly issued or treasury shares) of the listed company to any employee, director or other service provider as compensation for services. Even a compensatory grant of options or other equity securities that is not made under a plan is, nonetheless, an "equity-compensation plan" for these purposes.

However, the following are not "equity-compensation plans" even if the brokerage and other costs of the plan are paid for by the listed company:

- Plans that are made available to shareholders generally, such as a typical dividend reinvestment plan.
- Plans that merely allow employees, directors or other service providers to elect to buy shares on the open market or from the listed company for their current fair market value regardless of whether:
 - the shares are delivered immediately or on a deferred basis; or
 - the payments for the shares are made directly or by giving up compensation that is otherwise due (for example, through payroll deductions).

For purposes of the immediately foregoing provision, the fair market value of the issuer's common stock means the most recent official closing price on the Exchange, as reported to the Consolidated Tape, at the time of the issuance of the securities. For example, if the securities are issued 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 securities are issued at any time between the close of the regular session on Monday and the close of the regular session on Tuesday, then Monday's official closing price is used.

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312.04 For the Purpose of Section 312.03

For the purpose of Section 312.03:

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(j) "Official Closing Price" of the issuer's common stock means the most recent official closing price on the Exchange, as reported to the Consolidated Tape [immediately preceding] , at the time of the signing of a binding agreement to issue the securities. For example, if the transaction is 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 signed at any time between the close of the regular session on Monday and the close [if] of the regular session on Tuesday, then Monday's official closing price is used.

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