

## SECURITIES ALERT

### SECURITIES EXCHANGE COMMISSION EXTENDS EMERGENCY ORDERS RELATING TO SHORT SALES AND ISSUER REPURCHASES

On October 1, 2008, the Securities and Exchange Commission (SEC) issued a press release announcing that it will extend its emergency orders that impose restrictions and reporting requirements on certain short selling activities and relax certain conditions on issuer share repurchases. At the time of the publication of this alert, two orders extending the effectiveness of the issuer repurchase rule and Rule 204T of Regulation SHO, have been issued. The SEC's announced action will extend the emergency orders as follows:

#### NAKED SHORT SELLING ORDER

Rule 204T, which in general imposes consequences on clearing firms that fail to deliver securities sold short within the three business day settlement cycle, will remain in effect until 11:59 p.m. Eastern time on October 17, 2008. The SEC announced that it will promulgate an interim final rule that will continue the effect of Rule 204T after the expiration of the emergency order. Rule 10b-21 and the elimination of the option market maker exception from Rule 203 of Regulation SHO are currently effective rules and rule amendments that are not required to be extended.

#### SHORT SALE PROHIBITION ORDER

The SEC announced that its emergency order prohibiting the short sale of common equity securities of "included financial firms"<sup>1</sup> will be extended until the earlier of the third business day after the enactment of Congress's legislation to stabilize credit markets and the financial system or 11:59 p.m. Eastern time on October 17, 2008.

#### SHORT SALE REPORTING ORDER

The SEC also announced that its emergency order that imposes additional reporting requirements relating to short sales on institutional investment managers that are required to file Form 13F will be extended until 11:59 p.m. Eastern time on October 17, 2008. The SEC announced that it will

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<sup>1</sup> Included financial firms are determined by the national securities exchange listing financial institutions, and a list of the current included financial firms is posted on such exchanges' Web sites.

promulgate an interim final rule that will continue the requirement to report after the expiration of the emergency order. The SEC also stated in its press release that disclosure on Form SH under the emergency order will be made “only to the SEC.” While a formal order on this point has not yet been issued, we understand that this statement means that the SEC will not make filings on Form SH public. Prior to this revision, Form SH filings were to become public two weeks after their due date.

## 10B-18 ORDER

The SEC extended the effect of its emergency order that relaxes the conditions of the safe harbor related to issuer share repurchases until 11:59 p.m. Eastern time on October 17, 2008.

For the full text of the SEC’s statement extending the emergency orders, [click here](#).

For a client alert summarizing the emergency orders prior to extension, [click here](#).

For quick links to the full text of the emergency orders, [click here](#).

## CONTACT INFORMATION

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