

# Client Alert

A report  
for clients  
and friends  
of the Firm      October 2008

## SEC Amends Emergency Orders on Short Sales

### Short Sale Disclosure

On October 2, 2008, the Securities and Exchange Commission (the "SEC") extended and further amended the Emergency Order initially adopted on September 18, 2008, requiring the filing of a new weekly disclosure form, Form SH, by all investment managers who filed or who were required to file a Form 13F for the calendar quarter ended June 30, 2008.

The amended Order provides that the Form SH will now be permanently confidential.

The Order, and therefore the Form SH reporting requirement, will now remain effective until Friday, October 17, and will require a filing of Form SH up to and including Tuesday, October 14, 2008 (because Monday, October 13 is a holiday). The SEC has stated its intent, however, to make Form SH a permanent reporting requirement by issuing a interim final rule.

### End of Short Selling Ban

On October 2, 2008, the SEC also made certain amendments to its Emergency Order regarding the prohibition on short sales of certain financial services firms' publicly traded securities.

The ban on such short sales will now expire at 11:59 p.m. Eastern Time on Wednesday, October 8, 2008.

### Naked Short Selling Rule

On October 2, 2008, the SEC extended its Emergency Order regarding certain temporary enhanced delivery requirements on certain sales of securities related to "naked" short selling. The rules are intended to deter "naked" short selling, where shares are sold short without first having been successfully borrowed. The Order will now expire on October 17, 2008 at 11:59 p.m. Eastern Time.

The temporary enhanced delivery rules impose a penalty on any participant of a registered clearing agency, and any broker-dealer from which it receives trades for clearance and settlement, for having a "fail to deliver" position at a registered clearing agency in any equity security.

The SEC also incorporated into the delivery requirements certain guidance published by its Division of Trading and Markets, which guidance is available here (<http://www.sec.gov/divisions/marketreg/204tfaq.htm> and <http://www.sec.gov/divisions/marketreg/loanedsecuritiesfaq.htm>).

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### Client Alert

Proskauer's Corporate Department includes over 175 attorneys worldwide with significant and diverse corporate law experience.

For more information, please contact:

**Benjamin J. Catalano**  
212.969.3980 – bcatalano@proskauer.com

**Timothy M. Clark**  
212.969.3960 – tclark@proskauer.com

**Edward A. Kwalwasser**  
212.969.3515 – ekwalwasser@proskauer.com

**Stephen L. Ratner**  
212.969.3290 – sratner@proskauer.com

**Kathy H. Rocklen**  
212.969.3755 – krocklen@proskauer.com

**Thomas V. Sjoblom**  
212.969.3110 – tsjoblom@proskauer.com  
Washington, D.C. 202.416.5805

**Christopher M. Wells**  
212.969.3600 – cwells@proskauer.com

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