

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
RELEASE NO. 58711/ October 1, 2008

ORDER EXTENDING EMERGENCY ORDER PURSUANT TO SECTION 12(k)(2)
OF THE SECURITIES EXCHANGE ACT OF 1934 TAKING TEMPORARY ACTION
TO RESPOND TO MARKET DEVELOPMENTS

Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 (“Exchange Act”),¹ on September 17, 2008, the Securities and Exchange Commission (“Commission”) issued an Emergency Order (the “Order”) aimed at further reducing fails to deliver and addressing potentially abusive “naked” short selling in all equity securities.² The Order became effective at 12:01 a.m. E.D.T. on September 18, 2008 and is currently set to terminate at 11:59 p.m. E.D.T. on October 1, 2008.

Pursuant to our authority under Section 12(k)(2)(C) of the Exchange Act, we are extending the Order. Section 12(k)(2)(C) authorizes the Commission to extend an emergency order issued pursuant to Section 12(k)(2)(A) of the Exchange Act for a total effective period of up to 30 calendar days, if the Commission finds that the emergency still exists and determines that an extension is necessary in the public interest and for the protection of investors to maintain fair and orderly securities markets.

We have carefully reevaluated the current state of the markets and we remain concerned about the potential of sudden and excessive fluctuations of securities prices generally and disruption in the functioning of the securities markets that could threaten fair and orderly markets. We intend the enhanced delivery requirements (temporary Rule

¹ 15 USC 78l(k)(2).

² See Securities Exchange Act Release No. 58572 (Sept. 17, 2008)

204T and elimination of the options market maker exception) imposed by the Order and the “naked” short selling antifraud rule to provide powerful disincentives to those who might otherwise exacerbate artificial price movements through “naked” short selling. Thus, we have determined in this environment that the standards under Section 12(k)(2) for extending the Order have been met. Accordingly, we have determined that extending the Order is in the public interest and necessary to maintain fair and orderly securities markets and for the protection of investors.

In addition, we note that Staff of the Division of Trading and Markets has issued guidance regarding the Order to address current and anticipated technical and operational concerns resulting from the requirements of the Order.³ The guidance will continue to apply for the duration of the Order and the Commission hereby incorporates and adopts the guidance.

IT IS THEREFORE ORDERED that, pursuant to Section 12(k)(2)(C) of the Exchange Act, the Commission hereby incorporates and adopts the Division of Trading and Markets: Guidance Regarding the Commission’s Emergency Order Concerning Rules to Protect Investors Against “Naked” Short Selling Abuses and the Division of Trading and Markets Guidance Regarding Sale of Loaned but Recalled Securities.

³ See <http://www.sec.gov/divisions/marketreg/204tfaq.htm> and <http://www.sec.gov/divisions/marketreg/loanedsecuritiesfaq.htm>

IT IS FURTHER ORDERED that, pursuant to Section 12(k)(2)(C) of the Exchange Act, the Order is extended such that it will terminate at 11:59 p.m. E.D.T. on Friday, October 17, 2008.

By the Commission.

Florence E. Harmon
Acting Secretary