WaMu®

RECEIVED
ES 125255
2008 JUL 22 PM 8:40
CHAIRMAN'S
CORRESPONDENCE UNIT

July 17, 2008

Via fax 202-772-9200

Honorable Christopher Cox
Chairman
Mail Stop 1070
U.S. Securities and Exchange Commission
100 F. Street, N.E.
Washington, DC 20549

Dear Chairman Cox:

We applaud the Commission's recent initiatives to address abusive trading practices in the marketplace that are undermining confidence in fair and orderly trading in the marketplace and that threaten greater disruptions to our financial system. Yet, on behalf of Washington Mutual and our stakeholders, we believe that the Commission's July 15, 2008 emergency order, suspending naked short selling in the securities of certain specified financial institutions, should cover Washington Mutual and similarly situated institutions. Specifically, we believe that Washington Mutual and other financial institutions that are not covered by the order have more acutely experienced the effects of false rumors and abusive naked short selling than many that have been included, and will be exposed to even greater abuses as a result of being excluded from the order. Accordingly, we strongly urge the Commission to expand the scope of the Commission's order to include Washington Mutual and other financial institutions who are equal or greater participants in the U.S. mortgage markets as the companies initially covered by the order and whose recent experience is encompassed by the concerns described by the Commission as the basis for the emergency order.

The order begins with the following paragraph:

> "False rumors can lead to a loss of confidence in our markets. Such loss of confidence can lead to panic selling, which may be further exacerbated by 'naked' short selling. As a result, the prices of securities may artificially and unnecessarily decline well below the price level that would have resulted from the normal price discovery process. If significant financial institutions are involved, this chain of events can threaten disruption of our markets."

The order further notes that "false rumors have continued to threaten significant market disruption" and that "[t]here have also been rumors that financial institutions are facing liquidity problems". The Commission then states its conclusion that "there now exists a substantial threat 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 are concerned that, once the Commission's emergency order goes into effect, naked short sellers who wish to target firms with mortgage and financial exposure will be left with a much smaller group of large financial institutions to choose from, including Washington Mutual, with a resulting substantial increase in our already high short interest, potentially touching off further cycles of extreme volatility and sharp price declines. While we understand that the Commission will be considering rulemaking to address more broadly concerns over short selling, the threat of extreme near-term volatility in our stock and that of similarly situated financial institutions and the likelihood that naked short selling in these securities will be exacerbated once the emergency order goes into effect make it important that the order be expanded to cover these securities.

We understand that the firms covered by the order, which include a number of financial institutions that are not headquartered in the U.S. and whose securities are not traded primarily on U.S. securities markets, are those firms that are borrowing directly from Treasury and therefore create direct financial exposure for the government. Given how directly our experience matches the concerns outlined in the order, the significance of our contributions to the U.S. financial markets and the mortgage markets and the government's financial interest in the stability of the large mortgage lenders, we believe that limiting the scope of the order to firms borrowing directly from the government will not fully achieve the order's stated goals. We respectfully urge the Commission to reconsider and expand the scope of the order, both because the trading in securities of Washington Mutual and other excluded financial institutions pose as great or a greater threat to the stability of the markets than many of the firms included under the order, and because, to the extent government financial exposure is a driving factor, Washington Mutual and other excluded financial institutions are to a great extent backed by the government through FDIC and other channels.

We hope you are able to respond promptly given that the order becomes effective on July 21, 2008.

Very truly yours,

Kerry Killinger
Chief Executive Officer

cc: Erik R. Sirri, Director, Division of Trading and Markets (via fax 202-772-9273)
Daniel M. Gallagher, Counsel to the Chairman (via fax 202-772-9200)
Michael S. Solender, Chief Legal Officer

181574