



**Boston Options Exchange Regulation LLC
Regulatory Circular 2008-24**

TO: BOX Participants and Participant Organizations

FROM: BOX Regulation LLC

DATE: October 16, 2008

SUBJECT: Short Sale Rules Issued by the Commission

Dated October 14, 2008, the Securities and Exchange Commission (“SEC” or “Commission”) released three final rules relating to the recent emergency orders (“Orders”) on short selling; the Orders are dated September 18, 2008,¹ and amended on September 21, 2008.² The Commission extended its Order on October 2, 2008 when it was due to expire.³ Importantly, as the President signed the Emergency Economic Stabilization Act of 2008, the Commission’s ban on short selling of securities of financial institutions expired on October 8, 2008 at 11:59 p.m. ET.⁴

In speaking to the three final rules released, the first is an “interim final temporary rule” requiring delivery on settlement date and imposing penalties for failing to deliver. The proposal puts the rule into effect from October 17 through July 31, and simultaneously seeks comments which are due to the Commission on or before December 16, 2008. This rule can be found at <http://www.sec.gov/rules/final/2008/34-58773.pdf>

The Commission has also adopted an antifraud rule to address fails to deliver securities that have been associated with “naked” short selling. This is a final, permanent rule and no comments are sought. This rule can be found at <http://www.sec.gov/rules/final/2008/34-58774.pdf>

Lastly, the Commission has amended Regulation SHO by eliminating the options market maker exception to the close-out requirement to Regulation SHO. This also is a

¹ See Securities Exchange Act Release No. 58592 (September 18, 2008).

² See also Securities Exchange Act Release No. 58611 (September 21, 2008).

³ See Securities Exchange Act Release No. 58723 (October 2, 2008), extending the Order until the earlier of (i) three business days from the President’s signing of the Emergency Economic Stabilization Act of 2008 (H.R. 1424), or (ii) 11:59 p.m. E.D.T. on Friday, October 17, 2008.

⁴ See Securities Exchange Act Statement 2008-238 (October 3, 2008).

permanent and final rule. This rule can be found at <http://www.sec.gov/rules/final/2008/34-58775.pdf>

This circular is intended to provide a brief synopsis of the above referenced rules released by the SEC. For more information regarding these rules, please review the actual SEC rules located at the webpage addresses provided above.

If you have any questions regarding this information please contact Joe Dalton at joe.dalton@bostonstock.com or Bruce Goodhue at bruce.goodhue@bostonstock.com or (617) 235-2022.