

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
RELEASE NO. 58724 / October 2, 2008

AMENDMENT TO ORDER AND 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 18, 2008, the Securities and Exchange Commission (“Commission”) issued an Emergency Order,² as amended on September 21, 2008 (the “Order”),³ requiring institutional investment managers to report short sales of certain publicly traded securities. That Order took effect on September 22, 2008 and required the filing of a Form SH on September 29, 2008. The Order is currently set to terminate on October 2, 2008.

Pursuant to its authority under Section 12(k)(2)(C) of the Exchange Act, the Commission is 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. As a result of the extension, Forms SH shall be required to be filed on October 6, 2008 and

¹ 15 USC 78j(k)(2).

² See Exchange Act Release No. 58591 (September 18, 2008).

³ See Exchange Act Release No. 58591A (September 21, 2008).

October 14, 2008.⁴ The Commission is also making technical amendments to Form SH and its accompanying Instructions.

The Commission continues to be concerned about the potential for sudden and excessive fluctuations of securities prices and disruption in the functioning of the securities markets that could threaten fair and orderly markets. The Commission also continues to believe that some persons may take advantage of issuers that have become temporarily weakened by current market conditions to engage in inappropriate short selling in the securities of such issuers. Therefore, the Commission has concluded that it remains necessary to require certain institutional investment managers to report information concerning short sales of securities. Accordingly, the Commission has determined that extending the Order is necessary in the public interest and for the protection of investors to maintain fair and orderly securities markets.

The Commission believes that the nonpublic submission of Form SH may help prevent artificial volatility in securities as well as further downward swings that are caused by short selling, while at the same time, providing the Commission with useful information to combat market manipulation that threatens investors and capital markets. Also, the Commission has considered further the reasons to maintain the information as nonpublic in the current market environment, and is concerned that publicly available Form SH data could give rise to additional, imitative short selling that was not intended by the Commission's Order. Accordingly, the Commission has determined that Forms SH filed under the Order including those that were due on September 29, 2008 will

⁴ These reports must be filed electronically using the Commission's EDGAR system.

remain nonpublic to the extent permitted by law without the filer needing to submit a confidential treatment request.

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

By the Commission.

Florence E. Harmon
Acting Secretary