

PUBLICATION

SEC Issues Short Selling Emergency Order

September 22, 2008

On September 18, 2008, the United States Securities and Exchange Commission (SEC) issued an Emergency Order prohibiting all persons from short selling any publicly traded securities of financial firms identified on Appendix A of the Order. In a telephone call placed with the SEC, the SEC confirmed that the Order only applies to common stock even though it uses the broad term "securities."

There is a narrow exception for certain bona fide market makers, as well as an exception to allow short sales that occur as a result of automatic exercise or assignment of an equity option held prior to effectiveness of the Order due to expiration of the option.

The Emergency Order was effective **immediately**. It terminates at 11:59 p.m. EDT on October 2, 2008, unless further extended by the Commission.

Although the Emergency Order references "securities" rather than "stocks," our understanding based upon calls placed with the SEC is that the Emergency Order does not apply to debt securities, convertible or preferred securities. The appendix only lists the equity ticker symbols for the issuers on the appendix, and not the bond symbols.