



ALERT

brownrudnick *SEC Extends Emergency Orders on Short Sales*

As indicated in our prior alert, "[SEC Bans Short Sales in Financial Services Companies; Requires Disclosure of Short Sales](#)," the Securities and Exchange Commission (SEC) adopted emergency orders on September 18, 2008, prohibiting short selling by all persons in the securities of 799 financial services companies¹ and requiring institutional investment managers to disclose their short sales.² Both orders were set to expire at 11:59 p.m. EDT on October 2, 2008, unless extended by the SEC.

On October 1, 2008 the SEC extended the ban on short selling in financial services companies. The ban will now terminate at 11:59 p.m. EDT on the third business day after enactment of legislation to stabilize the credit markets and the financial system, but no later than October 17, 2008.³ Since the SEC delegated to each national security exchange the authority to identify the companies covered by the ban, the list has grown to over 950 companies. For a daily update of companies covered by the ban, see: <http://www.nyse.com/attachment/CONSOLIDATED-SSPROHIBITION.xls>

The order requiring disclosure of short sales by institutional investment managers was also extended to 11:59 p.m. EDT on October 17, 2008, but the SEC intends that this order will continue in effect beyond that date without interruption in the form of an interim final rule. Disclosure under the emergency order will be made only to the SEC, which will be seeking comments on all aspects of the anticipated rule making. The SEC recently issued [guidance](#) for institutional investment managers regarding how to disclose their short positions.

The situation remains fluid and we will continue to update you.

If you have any questions as to the scope or interpretation of the new rules and what they may mean for you, or need assistance with disclosure, please contact your Brown Rudnick attorney or one of the following attorneys:

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¹ <http://www.sec.gov/rules/other/2008/34-58592.pdf>; <http://www.sec.gov/rules/other/2008/34-58611.pdf>

² <http://www.sec.gov/rules/other/2008/34-58591.pdf>; <http://www.sec.gov/rules/other/2008/34-58591a.pdf>

³ <http://www.sec.gov/news/press/2008/2008-235.htm>