



## Regulatory Circular 07-012

Date: September 20, 2007

To: ETP Holders

From: James C. Yong  
Chief Regulatory Officer

**Re: Regulation SHO Changes Occurring on Friday, October 5, 2007**

Recently, the Securities and Exchange Commission (the Commission or SEC) amended Rule 10a-1 and Rule 200(g) of Regulation SHO to remove the requirement that a broker-dealer mark a sell order of any equity security as short exempt if the seller is relying on an exception from the price test of Rule 10a-1, or any price test of any exchange or national securities association. **Rule 200(g) currently requires a broker or dealer to mark all sell orders of any equity securities as "long" or "short".**

On July 2, 2007 the Commission issued temporary no-action relief from Rule 200(g) of Regulation SHO for Short Exempt transactions. Without this relief, upon the official compliance date for the amendment to Rule 200(g), July 6, 2007, broker dealers were no longer permitted to mark sales as short exempt, but rather all short sales were required to be marked short. The temporary relief that allows firms to continue to mark sales short exempt will expire on October 4, 2007. Beginning October 5, 2007, firms may no longer mark sales short exempt.

Effective Friday, October 5, 2007, as part of an industry wide change associated with recent amendments to Regulation SHO and SEC Rule 10a-1 communicated in Exchange Act Release No. 55970 (June 28, 2007), the National Stock Exchange, Inc., will no longer accept Sell Short Exempt Orders. These orders will be rejected back to the order sending party.

ETP Holders are reminded that previously marked sell short exempt orders should be handled as sell short orders as of October 5, 2007.

Any questions can be directed to Paul Smith at 312.786.7562 or me at 312.786.8893.