



Regulatory Circular 07-016

Date: October 2, 2007

To: ETP Holders

FINRA/NSX Trade Reporting Facility Users

From: James C. Yong
Chief Regulatory Officer

**Re: Regulation SHO Changes Occurring on Friday, October 5, 2007 on
FINRA/NSX Trade Reporting Facility**

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 FINRA/NSX Trade Reporting Facility (TRF), will no longer accept cross orders marked Sell Short Exempt. Cross orders marked Sell Short Exempt will be rejected back to the 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.