



Regulatory Circular RG08-113

To: Members

From: Division of Member and Regulatory Services

Date: September 19, 2008

Re: SEC Issues New Rules Regarding Short Sales (UPDATE)  
- Guidance on Temporary Rule 204T

Below is guidance for members on two aspects of the SEC's previous emergency order that went into effect on Thursday, September 18, 2008. This order is located at <http://www.sec.gov/rules/other/2008/34-58572.pdf>.

Assignments & Exercises of Certain Pre-Existing Option Positions Are Not Subject to Rule 204T:

- Rule 204T of the Order only applies to trades that occur after the Order became effective on September 18, 2008. Rule 204T requires delivery on T+3 for sales of all equity securities. A fail to deliver for a short sale must be closed-out no later than the beginning of regular trading hours on T+4 and a fail to deliver for a long sale must be closed out no later than the beginning of regular trading hours on T+6. If the close out does not occur in these time periods, the clearing firm involved cannot accept a new short sale order from anyone (including introducing or executing brokers) until the close-out eventually occurs and settles.
- We are issuing this circular to advise members that, if a short call option was established by a person before the effective date, then any short stock position that results from the assignment of the short call option is not subject to emergency Rule 204T. In addition, if a long put position was established by a person before the effective date, then any short stock position that results from the automatic exercise of the long put position is not subject to emergency Rule 204T. Please note, however, that exercises of any long puts that are not done through the automatic exercise process and that would result in a short stock position are subject to emergency Rule 204T.
- Notwithstanding the foregoing, members are also reminded that fails to deliver in a "threshold security" remain subject to the close-out requirement under Rule 203(b)(3). Therefore, even if fail is not subject to a close-out under Rule 204T, a fail in a threshold security is required to be closed-out within 13 consecutive settlement days from trade date by a bona-fide purchase of securities of like kind and quantity.

Calculation of Delivery Date for Short Sales Resulting From Assignments and Exercise:

- Additionally, provided a consistent methodology is used for purposes of calculating a T+3 delivery date for trades subject to Rule 204T, the “T” for short stock transactions occurring as a result of an assignment on a short call may be recognized on either the day of the exercise (“trade date” basis) or the following business day (“assignment posting date” basis). For example, in the case of an assignment of a short call position after an expiration Friday, “T” could be recognized as either Friday or the following settlement day, which is Monday assuming it is not an Exchange holiday. For short stock transactions occurring as a result of any exercise of a long put, “T” shall be the day of the exercise. For additional information, please refer to CBOE Regulatory Circular RG08-63, Q&A #4, located at <http://www.cboe.org/publish/RegCir/RegCir/063.pdf>.

\* \* \* \* \*

Any questions about this circular may be directed to Jim Adams at [adamsj@cboe.com](mailto:adamsj@cboe.com) or 312-786-7718 or Jennifer Lamie at [lamie@cboe.com](mailto:lamie@cboe.com) or 312-786-7576.

(See also Regulatory Circulars RG08-106, RG08-110 and RG08-112)