



Regulatory Circular RG08-135

To: Members

From: Division of Member and Regulatory Services  
Legal Division

Date: October 17, 2008

Re: Market Maker Attestation Relating to the Close-out Requirements  
of Temporary Rule 204 T of Regulation SHO

As you may be aware, on October 14, 2008, the SEC issued an order that extends temporary Rule 204T on an "interim final temporary" basis from October 17, 2008 until July 31, 2009. One of the modifications contained in the interim final temporary rule is that a market maker to which a fail to deliver position at a registered clearing agency is attributable is no longer required to attest in writing to the market on which it is registered that the fail to deliver position at issue was established solely for the purpose of meeting its bona fide market making obligations and the steps the market maker has taken in an effort to deliver securities to its registered clearing agency. Please note, however, as with any exception, a broker-dealer would have to evidence eligibility for, and compliance with, the requirements of the exception. (See footnote 84 of the order, which is available at: <http://www.sec.gov/rules/final/2008/34-58773.pdf>.)

The effective date of this modification to Rule 204T is today, October 17, 2008.

Any questions on this Regulatory Circular may be directed to Jim Adams at [adams@cboe.com](mailto:adams@cboe.com) or 312-786-7715, Bob Gardner at [gardner@cboe.com](mailto:gardner@cboe.com) or 312-786-7937 or Jennifer Lamie at [lamie@cboe.com](mailto:lamie@cboe.com) or 312-786-7576.

(Updates Regulatory Circular RG08-118)