

Short Sales: SEC Adopts Final Rule 204, Allows Rule 10a-3T (Form SH) to Expire and Announces Other Short Sale Initiatives

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On July 27, 2009, the Securities and Exchange Commission ("SEC") adopted final Rule 204 of Regulation SHO ("Rule 204" or the "final rule") under the Securities Exchange Act of 1934, making permanent, with minor changes, the firm delivery and close-out requirements for sales of equity securities contained in temporary Rule 204T of Regulation SHO ("temporary Rule 204T" or the "temporary rule"). Among the minor changes, the final rule provides broker-dealers with some limited increased flexibility by allowing them to close out fails by either borrowing or purchasing securities in certain situations where the temporary rule required purchases, and expanding the class of securities eligible for a 35-day close-out period to include certain securities the seller is deemed to own.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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