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Short Sales: SEC Staff Provides Guidance on Short Sale Order-Marking Issues, Updates Regulation SHO FAQs

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On August 28, 2009, the staff (the "**Staff**") of the Division of Trading and Markets of the Securities and Exchange Commission released updates to its Regulation SHO FAQs, providing guidance concerning:

- marking multiple orders "in flight";
- marking an order where only a part of the order is net long; and
- relying on a locate provided by a non-U.S. registered broker-dealer.

These updates provide helpful clarity on issues that were causing confusion in the market. In addition, we believe that the Staff's guidance is critical in advance of the possible adoption of a price test restriction.

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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