



Information Circular IC07- 132

Date: August 28,2007

To: Members and Member Organizations

From: Division of Member and Regulatory Services
Legal Division

Subject: Regulation SHO Update

Regulation SHO requires all market participants to close out any fail to deliver positions in a "threshold security" that has persisted for 13 consecutive settlement days through a bona fide purchase. If the position is not closed out within those 13 settlement days, the clearing firm and the broker-dealers for whom it clears may not accept any short sale orders or effect further short sales in the particular threshold security without borrowing, or entering into a bona-fide arrangement to borrow, the security until the participant closes out the entire fail position.

Currently there are two exceptions to the close out requirement: First, if the fail to deliver position was established prior to the security becoming a threshold security, the fail does not need to be closed out within 13 settlement days (or at any time) because it is a "grandfathered" position. This exception applies to all market participants, including options market-makers ("OMMs"). Second, any fail to deliver position in a threshold security that results from a short sale effected by a registered OMM to establish or maintain a hedge on options positions, when such options positions were created before the underlying security became a threshold security, does not have to be closed out within 13 settlement days (or at any time).

On September 6, 2007, Staff from the Division of Member and Regulatory Services and the Legal Division will provide members with an update on amendments to Regulation SHO. Specifically, the update will focus on the proposed elimination of the OMM hedge exception to the close-out requirement. An overview of the elimination of the grandfather provision of Regulation SHO, which goes into effect on October 15, 2007, will also be presented. There will also be an opportunity to present questions to the staff. Your attention is directed to Information Circular IC07- 121 and Regulatory Circular RG07-89.

The discussion will take place in the 4th Floor Auditorium at 3:30 PM on Thursday, September 6, 2007.

The SEC releases are located at: <http://www.sec.gov/rules/proposed.shtml>

If you have any questions regarding this Information Circular or Regulation SHO you may contact James Adams, (312) 786-7718, or Robert Gardner, (312) 786-7739 in the Department of Member Firm Regulation or Jennifer Lamie, (312) 786-7576 in the Legal Division.