

FUNDamentals™
Investment Management
Client Alert Series

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Form 13F Filers Required to Report Short Sales Weekly

Early this morning the Securities and Exchange Commission (“SEC”) publicly released its emergency order, Securities Exchange Act of 1934 Release No. 58591 (the “Order”), which requires certain institutional investment managers to begin filing reports of short sales on a weekly basis.

When is the Order effective?

The SEC Order is effective on Monday, September 22, and the first filing is required under this order on September 29, 2008. The Order terminates automatically on October 2, 2008 unless it is extended by the SEC.

Who does the Order apply to?

The Order applies to any person required to file a Form 13F for the quarter ended June 30, 2008. A person is required to file a Form 13F if they are an institutional investment manager that exercises investment discretion with respect to accounts holding Section 13(f) securities (generally these are equity securities listed on an exchange) having an aggregate fair market value on the last trading day of any month of any calendar year of at least \$100,000,000. Again, by the terms of the Order, it only applies to persons who were filers as of June 30, 2008.

What must be filed?

The SEC has created a new Form SH which must be electronically filed via EDGAR. The filings are to take place on a weekly basis on the first business day of each calendar week following a week in which the manager effected short sales.

Where can I find the Order and related materials?

The Order and related materials may be found on the SEC’s website at the following address: <http://www.sec.gov/news/press/2008/2008-211.htm>.

ABOUT THE AUTHORS

Michael Renetzky’s practice focuses on investment management, securities and corporate law. Mr. Renetzky devotes a substantial portion of his time to representing buyers and sellers in mergers and acquisitions transactions. Additionally, he has considerable experience counseling clients on securities law compliance, debt and equity financing matters, investment adviser, investment company and broker-dealer regulation.

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