SEC Adopts New Short Selling Rule

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On February 23, 2009, the Securities and Exchange Commission (the “SEC”) adopted a new short selling rule which places restrictions on the short selling of securities which experience a price decline of 10% or more in one day. In a press release regarding the adoption of the new “alternative uptick rule” (Rule 201) (http://www.sec.gov/news/press/2010/2010-26.htm) the measure was described as one “intended to promote market stability and preserve investor confidence.”

Under the new rule, once the 10% circuit breaker is triggered, short-sales in the affected security would only be permitted if the price for such security is above the current national best bid. The alternative uptick provision would remain in place for both the remainder of the day on which the circuit breaker is triggered and the following trading day.

The new rule will generally apply to all equity securities that are listed on a national securities exchange, including those traded on the exchange as well as those traded in the over-the-counter market. In addition, under the new rule trading centers will be required to maintain and enforce written policies and procedures established to prevent prohibited short sales.

The new rule will become effective 60 days after the date of publication of the release in the Federal Register.