



## SEC PROHIBITS CERTAIN SHORT SELLING AND IMPOSES NEW DISCLOSURE REQUIREMENTS

### TEMPORARY SHORT SALE PROHIBITION

The Securities and Exchange Commission (the "SEC") issued an emergency order restricting short sales of publicly traded securities of certain financial companies. The emergency order is effective immediately and will be in place until October 2, 2008 at 11:59 pm EDT, unless further extended by the SEC. The list of financial companies whose securities are affected is available at:

<http://www.sec.gov/rules/other/2008/34-58592.pdf>

The emergency order does not require that existing short positions be closed or eliminated.

### EXCEPTIONS TO PROHIBITION

There are three limited exceptions to the emergency order:

(1) The emergency order does not apply to short sales that occur as a result of the automatic exercise or assignment of an equity option held prior to the effectiveness of the order, or in connection with the settlement of a futures contract that is held prior to the effectiveness of the order.

(2) The emergency order does not apply to the writer of a call option who effects a short sale following the exercise or the assignment of the option.

(3) Generally, with limited exceptions, the emergency order does not apply to market makers that effect short sales as part of bona fide market making and hedging activity in derivatives of the publicly traded securities of financial companies (including exchange-traded funds and exchange-traded notes of which such securities are a component).

The emergency order does not apply to short sales of restricted securities of financial companies.

### PUT OPTIONS

The emergency order does not prohibit the purchase of put options for securities of financial companies. Nevertheless, short sales resulting from the exercise of a put option are generally prohibited.

Furthermore, investors should be aware that the Financial Services Authority of the United Kingdom has issued a broad prohibition that includes both short sales of certain stocks and transactions that have an economic effect similar to short sales.

### REPORTING REQUIREMENTS

Institutional investment managers who have investment discretion over accounts holding securities of an aggregate fair market value of at least \$100,000,000 and who file or are required to file a Form 13F pursuant to Rule 13f-1 promulgated under the Securities Exchange Act of 1934, as amended (the "1934 Act"), are obligated under the emergency order to periodically file a new Form SH with the SEC. This filing is required on the first business day of every week immediately following a week in which a short sale took place. Form SH must be filed with the SEC electronically through EDGAR.

Filing Form SH is not required if (i) the short position constitutes less than 0.25% of the issued and outstanding shares of the applicable class of the securities; and (ii) the fair market value of the securities sold short is less than \$1,000,000.

This disclosure requirement only applies to short sales effected after 12:01 am EDT on September 22, 2008 and will terminate at 11:59 pm on October 2, 2008, unless further extended by the SEC.

### ISSUER REPURCHASES UNDER RULE 10B-18

The SEC temporarily amended Rule 10b-18 under the 1934 Act in order to provide issuers with more flexibility to repurchase their securities. Specifically, the time of purchase conditions of paragraphs (b)(2)(i), (b)(2)(ii) and (b)(2)(iii) of Rule 10b-18 have been suspended and the maximum allowable volume of Rule 10b-18 purchases that an issuer may generally effect on any single day has been temporarily increased from 25% of the average daily trading volume reported for the security during the four calendar weeks preceding the week in which the Rule 10b-18 purchase is effected ("ADTV") to 100% of ADTV.

The modifications to Rule 10b-18 are effective as of 12:01 am EDT on September 19, 2008 and will terminate at 11:59 pm on October 2, 2008, unless further extended by the SEC.



Please note that if you are engaging in other forms of short selling or in transactions that have an economic effect similar to short sales, your activities may be subject to further restrictions. We encourage you to discuss all matters related to this issue with us.

### If you need further information, contact:

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### About Curtis

Curtis, Mallet-Prevost, Colt & Mosle LLP is an AmLaw 200 international law firm. Curtis' worldwide practice includes corporate law, mergers & acquisitions, capital markets and finance, project finance and infrastructure, investment management,

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### About the International Funds Group

Curtis' International Funds Group has been counseling investment managers and investors on a global scale for close to half a century. We specialize in developing tailored structures for the international investment community, in particular in the area of private equity and hedge funds. Our clients include financial institutions, domestic and international fund managers, their sponsors and principals, including Funds of Funds, pension plans, governmental and quasi-governmental institutions, Sovereign Wealth Funds, high net worth individuals, their family offices and other institutional asset managers and investors.

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