

**UPDATE: SEC Issues Further Guidance to Protect Investors Against "Naked" Short Selling**

**Please Route To:** Head Traders; Technical Contacts; Compliance Officers

**What you need to know:**

As stated in [Regulatory Alert #2008-25](#), the Securities and Exchange Commission (SEC) issued further guidance to protect investors against "naked" short selling:

The SEC is "extending temporary [Rule 204\(a\)'s](#) close-out requirement for fails to deliver attributable to bona fide market making activities by registered market makers, options market makers, or other market makers obligated to quote in the over-the-counter market (collectively, "Market Makers")."

As a result, NASDAQ® Market Makers must "close out the fail to deliver position attributable to a Market Maker by no later than the beginning of regular trading hours on the morning of the third settlement day after the settlement date for the transaction that resulted in the fail to deliver position."

In order to receive such relief, a NASDAQ Market Maker to which a fail to deliver position at a registered clearing agency is attributable, must fill out and submit the attached form per security, per event to:

- (1) attest in writing to the market on which it is registered that the fail to deliver position at issue was established solely for the purpose of meeting its bona fide market making obligation, and,
- (2) describe the steps the Market Maker has taken in an effort to deliver securities to its registered clearing agency.

NASDAQ Market Makers wishing to invoke this temporary relief should fax the [Request for Relief](#) form to NASDAQ MarketWatch at +1 301 978 8511.

**Where can I get additional information?**

- View the [Request for Relief](#) form.
- View press release [#218](#) on the SEC website for details.
- View [SEC Release #58611](#).
- View current and historical lists of [Included Financial Firms](#) on the NASDAQ Trader website.
- Contact [NASDAQ Market Operations](#) +1 212 231 5100.
- Contact NASDAQ MarketWatch at +1 800 211 4953.

---

The NASDAQ OMX Group, Inc. is the world's largest exchange company. It delivers trading, exchange technology and public company services across six continents, and with over 3,900 companies, it is number one in worldwide listings among major markets. NASDAQ OMX offers multiple capital raising solutions to companies around the globe, including its U.S. listings market; the OMX Nordic Exchange, including First North; and the 144A PORTAL Market. The company offers trading across multiple asset classes including equities, derivatives, debt, commodities, structured products and ETFs. NASDAQ OMX technology supports the operations of over 60 exchanges, clearing organizations and central securities depositories in more than 50 countries. OMX Nordic Exchange is not a legal entity but describes the common offering

from NASDAQ OMX exchanges in Helsinki, Copenhagen, Stockholm, Iceland, Tallinn, Riga, and Vilnius. For more information about NASDAQ OMX, visit [www.nasdaqomx.com](http://www.nasdaqomx.com).

© Copyright 2008 The NASDAQ OMX Group, Inc. All Rights Reserved.