

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
RELEASE NO. 34-58588 September 18, 2008

EMERGENCY ORDER PURSUANT TO SECTION 12(k)(2) OF THE SECURITIES
EXCHANGE ACT OF 1934 TAKING TEMPORARY ACTION TO RESPOND TO MARKET
DEVELOPMENTS

The Commission is aware of the continued potential of sudden and excessive fluctuations of securities prices and disruption in the functioning of the securities markets that could threaten fair and orderly markets. Given the importance of confidence in our financial markets as a whole, we have also become concerned about sudden and unexplained declines in the prices of securities. Such price declines can give rise to questions about the underlying financial condition of an issuer, which in turn can create a crisis of confidence without a fundamental underlying basis. This crisis of confidence can impair the liquidity and ultimate viability of an issuer, with potentially broad market consequences.

As a result of these recent developments, the Commission concluded that there continues to exist the potential of sudden and excessive fluctuations of securities prices generally and disruption in the functioning of the securities markets that could threaten fair and orderly markets. Based on this conclusion, the Commission is exercising its powers under Section 12(k)(2) of the Securities Exchange Act of 1934.¹ Pursuant to Section 12(k)(2), in appropriate circumstances the Commission may issue summarily an order to alter, supplement, suspend, or impose requirements or restrictions with respect to matters or actions subject to regulation by the Commission.

¹ This finding of an “emergency” is solely for purposes of Section 12(k)(2) of the Exchange Act and is not intended to have any other effect or meaning or to confer any right or impose any obligation other than set forth in this Order.

We have determined that issuer repurchases can represent an important source of liquidity during times of market volatility. Exchange Act Rule 10b-18 provides issuers with a safe harbor to effect repurchases within certain conditions. Historically, issuers generally have been reluctant to undertake repurchases without the certainty that their repurchases come within the safe harbor. Temporarily altering the timing and volume conditions in the safe harbor will provide additional flexibility and certainty to issuers that consider executing repurchases during the current market conditions. In these unusual and extraordinary circumstances, we believe altering the timing and volume conditions in Exchange Act Rule 10b-18 is necessary in the public interest and for the protection of investors to maintain fair and orderly securities markets, and to prevent substantial disruption in the securities markets.

IT IS ORDERED, pursuant to our Section 12(k)(2) powers, that:

In connection with a Rule 10b-18 purchase or with a Rule 10b-18 bid that is made during the period covered by this Order by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, an issuer, or an affiliated purchaser of the issuer, shall not be deemed to have violated Section 9(a)(2) of the Exchange Act or Rule 10b-5 under the Exchange Act, solely by reason of the time or price at which its Rule 10b-18 bids or Rule 10b-18 purchases are made or the amount of such bids or purchases or the number of brokers or dealers used in connection with such bids or purchases if the issuer or affiliated purchaser of the issuer meets all of the conditions in Rule 10b-18 with the exception that:

(i) The time of purchases condition in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of Exchange Act Rule 10b-18 is suspended; and

(ii) The volume of purchases condition in paragraph (b)(4) of Exchange Act Rule 10b-18 is modified so that the amount of Rule 10b-18 purchases must not exceed 100 percent of the ADTV for the security.

All other provisions of Exchange Act Rule 10b-18, including the manner and price of purchase conditions of paragraphs (b)(1) and (b)(3), are not altered by this order. Terms used in this order have the same meanings as those terms used in Exchange Act Rule 10b-18 unless stated otherwise.

This Order shall be effective at 12:01 a.m. EDT on September 19, 2008, and shall terminate at 11:59 p.m. on October 2, 2008 unless further extended by the Commission.

By the Commission.

Florence E. Harmon
Acting Secretary