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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106971]

Order Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rule 203(d) of Regulation SHO, from Compliance with the Locate Requirement in Rule 203(b)(1) of Regulation SHO Outside of Regular Trading Hours

November 23, 2026.

I. Introduction

On November 20, 2026, PTG submitted a request for exemptive relief pursuant to section 36 of the Securities Exchange Act of 1934 ("Exchange Act")[1] from the locate requirement under Rule 203(b)(1) of Regulation SHO[2] for U.S. equity securities that are traded outside of regular market hours.[3] In submitting the request, PTG cites (i) a need for further development of the market infrastructure needed to obtain locates (defined below) outside of regular trading hours in the same manner as during regular trading hours, and (ii) operational challenges in obtaining locates for trading outside of regular market hours that may stifle liquidity and limit participation in trading sessions outside of regular market hours. Accordingly, PTG requests that the Commission provide temporary exemptive relief from the locate requirement to facilitate trading outside of regular market hours.

For the reasons discussed below, the Commission has determined it is appropriate in the public interest and consistent with the protection of investors to grant temporary exemptive relief until November 23, 2027, pursuant to its authority under section 36(a)(1) of the Exchange Act and Rule 203(d) of Regulation SHO, from compliance with the locate requirement in Rule

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1 15 U.S.C. 78mm.

2 17 CFR 242.203(b)(1).

3 Letter from Joanna Mallers, Secretary, PTG (November 20, 2026) ("November 2026 PTG Letter").

203(b)(1) of Regulation SHO for broker-dealers effecting short sales during trading occurring outside of 9:30 a.m. to 4 p.m. Eastern Time ("ET").

II. BACKGROUND

The Securities and Exchange Commission ("Commission" or "SEC") adopted Rule 203(b)(1) of Regulation SHO under the Exchange Act to reduce persistent fails-to-deliver in order to address potentially abusive "naked" short selling.[4] Rule 203(b)(1) of Regulation SHO generally requires a broker-dealer, prior to effecting short sales in an equity security, to "locate" the securities available for borrowing.[5] Subject to certain exceptions,[6] the rule prohibits a broker-dealer from accepting a short sale order in any equity security from another person, or effecting a short sale for the broker-dealer's own account, unless the broker-dealer (1) has borrowed the security, or entered into a bona-fide arrangement to borrow the security, or (2) has reasonable grounds to believe that the security can be borrowed so that it can be delivered on the date delivery is due.[7] This requirement to either borrow or enter into a bona fide agreement to borrow, or have reasonable grounds to believe that the security can be borrowed in time for delivery, is known as the "locate" requirement and must be met and documented by the broker-dealer effecting a short sale prior to effecting the short sale, regardless of whether the seller's short position may be closed out by purchasing securities the same day.[8] Broker-dealers engaged in

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4 Short selling involves a sale of a security that the seller does not own and that is consummated by the delivery of a security borrowed by or on behalf of the seller. In a ''naked'' short sale, a seller does not borrow or arrange to borrow securities in time to make delivery to the buyer within the standard settlement cycle, which is currently one business day after the trade ("T+1"). As a result, the seller fails to deliver securities to the buyer when delivery is due. This is referred to as a "failure to deliver" or "fail." Sellers can intentionally fail to deliver securities as part of a scheme to manipulate the price of a security, or possibly to avoid borrowing costs associated with short sales. This is typically referred to as "manipulative" or "abusive" naked short selling. *See* "Naked" Short Selling Antifraud Rule, Exchange Act Release No. 58774 (Oct. 14, 2008), 73 FR 61666, 61667 (Oct. 17, 2008). *See also* Short Sales, Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008, 48009 and 48028 (Aug. 6, 2004) ("Regulation SHO Adopting Release").

5 *See* 17 CFR 242.203(b)(1). *See also* Regulation SHO Adopting Release, 69 FR at 48013–14.

6 *See* 17 CFR 242.203(b)(2).

7 *See* 17 CFR 242.203(b)(1)(i), (b)(1)(ii). *See also* Regulation SHO Adopting Release, 69 FR at 48014.

8 *See* 17 CFR 242.203(b)(1)(iii). *See also* Regulation SHO Adopting Release, 69 FR 48014.

certain bona-fide market making activities at the time of the short sale may be eligible for the bona-fide market making exception to the locate requirement.[9]

The Commission discussed the expansion of extended-hours trading (i.e., trading that occurs outside of the regular trading hours of 9:30 a.m. to 4 p.m. ET) even before Regulation SHO's locate requirement was adopted,[10] and interest in extended-hours trading has increased in recent years.[11] Under these circumstances, PTG requests a temporary exemption from the locate requirement in Rule 203(b)(1) for extended-hours trading.[12] PTG asserts that the requested exemption "will allow all market participants to actively support the ongoing initiatives to

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9 *See* 17 CFR 242.203(b)(2)(iii).

10 *See* Short Sales, Exchange Act Release No. 42037 (Oct. 20, 1999), 64 FR 57996, 58002 (Oct. 28, 1999) ("Short Sales Concept Release"). *See also* Order Suspending the Operation of Short Sale Price Provisions for Designated Securities and Time Periods, Exchange Act Release No. 50104 (July 28, 2004), 69 FR 48032, 48033 (Aug. 6, 2004) (noting, in the context of its 2004 price test study, that "while after-hours trading has grown in recent years, the volume is relatively small compared to the volume of trading occurring during regular trading hours when liquidity is greatest and prices reflect active market interest. Thus, the impact of any manipulative short selling after hours would be less than the effect of such activity during regular market hours because after-hours prices are not widely viewed as indicative of normal market prices.").

11 In recent years, the Commission has approved exchange rules permitting operation of exchanges during extended or overnight trading hours. *See, e.g.*, Exchange Act Release No. 101777 (Nov. 27, 2024), 89 FR 97092 (Dec. 6, 2024); Exchange Act Release No. 104086 (Sept. 26, 2025), 90 FR 46978 (Sept. 30, 2025); Exchange Act Release No. 102400 (Feb. 11, 2025), 90 FR 9794 (Feb. 18, 2025); Exchange Act Release No. 105532 (May 21, 2026), 91 FR 31509 (May 27, 2026); Exchange Act Release No. 105199 (Apr. 10, 2026), 91 FR 20222 (Apr. 15, 2026); and Exchange Act Release No. 105587 (May 29, 2026), 91 FR 33238 (June 3, 2026). Notably, however, while the Commission has approved rule changes of several national securities exchanges that would extend their hours of operation, those exchanges have not yet started trading during such "exchange extended hours." This is because the exchanges' rules provide that the exchanges will not commence operation of extended hours trading until the effective national market system ("NMS") plans that govern the collection, consolidation, processing, and dissemination of equity market data for NMS stocks and oversee the exclusive securities information processors ("SIPs") (i) have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during "exchange extended hours" that is equivalent to the mechanism established for times outside of those "exchange extended hours"; and (ii) have notified the exchanges that they are prepared to collect, consolidate, process and disseminate quotation and transaction information during the "exchange extended hours." The Commission approved NMS plan amendments to extend the hours of operation of the exclusive SIPs from 9 p.m. ET Sunday to 8 p.m. ET Friday, with a one-hour pause in operations at 8 p.m. ET, Monday, through Thursday. *See* Exchange Act Release No. 105779 (June 26, 2026), 91 FR 40082 (July 1, 2026) (approval order for CTA Plan and CQ Plan; implementation is scheduled to occur on December 6, 2026) and Exchange Act Release No. 105780 (June 26, 2026), 91 FR 40058 (July 1, 2026) (approval order for UTP Plan; implementation is scheduled to occur on December 6, 2026).

12 November 2026 PTG Letter at 3 (stating "it is appropriate for such relief to be limited to one year to allow market infrastructure to develop and mature").

expand market trading hours for U.S. equities, thus fostering deep liquidity and broad participation."[13]

III. PTG Exemption Request

In its request for relief, PTG states that the market infrastructure necessary to obtain locates "outside of regular market hours" in the same manner as "during regular trading hours" is "not fully developed," which creates operational challenges with the potential to "stifle liquidity and participation" outside of regular trading hours.[14] PTG highlights operational concerns that render the locate requirement difficult during extended-hours trading. First, PTG notes that many lending desks, which provide locates, may not be open 24 hours a day.[15] Second, PTG states that locates obtained during regular hours may expire before extended-hours trading commence.[16] PTG also states that clearing broker infrastructure may not be ready to accommodate trading outside of regular trading hours.[17]

PTG states that during extended-hours trading, liquidity is typically thinner, trading interest is more episodic in nature, and price volatility may be higher. PTG also states that even when trading sessions outside of regular market hours become supported by registered exchanges, it is anticipated that a significant percentage of overall trading activity will continue to occur off-exchange.[18] PTG suggests that, as a result, market makers may not be able to use the bona fide market making exception to provide liquidity outside of regular trading hours as they

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13 November 2026 PTG Letter at 3.

14 *See* November 2026 PTG Letter at 1. *Cf. SIFMA Roundtable: Building the Roadmap to 24/7 Trading*, SIFMA (Feb. 2026), https://live-sifma-new.pantheonsite.io/wp-content/uploads/2026/02/SIFMA-Roundtable-Building-the-Roadmap-to-24.7-Trading-Debrief-1.pdf (examining operational, technological, and regulatory changes necessary as exchanges and other trading venues move beyond extended hours trading toward a 24/7 trading model).

15 *See* November 2026 PTG Letter at 2.

16 *See* November 2026 PPG Letter at 2.

17 *See* November 2026 PTG Letter at 2.

18 *See* November 2026 PTG Letter at 3.

"may not be able to continuously quote in an identical manner compared to regular trading hours."[19]

PTG also states that the Commission has, over time, strengthened the close-out requirements and that, "[o]verall, the close-out requirements have been effective in reducing settlement failures, as close-outs typically result in an economic loss being incurred, which provides a strong incentive to avoid settlement fails."[20] Further, PTG states that the penalty provisions that apply when a broker-dealer has not timely closed-out a fail to deliver are "extremely punitive from a commercial perspective."[21]

PTG further asserts that it is possible that clearing brokers may continue to require locates or, alternatively, enforce short position limits even in the absence of a specific Commission locate requirement.[22] According to PTG, clearing brokers would otherwise continue to closely monitor the short sale activities of their customers and may bar certain customers from short selling altogether if they observe a pattern of fails.[23]

IV. Discussion and Exemptive Relief

Section 36(a)(1) of the Exchange Act authorizes the Commission to exempt, conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act, or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.[24] Rule 203(d) of Regulation SHO provides that, upon written application or upon its own motion, the Commission may grant an exemption from the provisions of Rule 203, either unconditionally or on specified terms and

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19 See November 2026 PTG Letter at 3.

20 *See* November 2026 PTG Letter at 2.

21 *See* November 2026 PTG Letter at 2.

22 *See* November 2026 PTG Letter at 2.

23 *See* November 2026 PTG Letter at 2.

24 15 U.S.C. 78mm(a)(1).

conditions, to any transaction or class of transactions, or to any security or class of securities, or to any person or class of persons.[25] For the reasons discussed below, the Commission finds that it is necessary or appropriate in the public interest and consistent with the protection of investors to grant a temporary exemption from compliance with the locate requirement in Rule 203(b)(1), for broker-dealers effecting short sales during trading occurring outside of 9:30 a.m. to 4 p.m. ET.

The locate requirement serves an important investor protection function by helping to reduce persistent fails-to-deliver and potentially abusive "naked" short selling. The operational challenges associated with satisfying the locate requirement during extended-hours trading, however, present distinct considerations that warrant temporary relief. In particular, the limited availability of securities lending desks, the potential expiration of locates obtained during regular trading hours, and the developing infrastructure to support extended-hours trading may impede broker-dealers' ability to obtain locates. These operational limitations could restrict short selling activity during periods when liquidity and market participation are already limited.

The Commission has previously recognized that short selling provides important benefits to the securities markets, including market liquidity and pricing efficiency. Other market participants have also stated, in discussions with Commission staff, that a temporary exemption from the locate requirement would provide flexibility to facilitate greater participation and increased liquidity in extended-hours trading. The Commission believes that addressing the operational impediments to short selling during extended-hours trading could facilitate additional trading interest, enhance liquidity, and contribute to more efficient price discovery. These potential benefits are particularly relevant during extended-hours trading, when thinner liquidity and episodic trading interest may make it more difficult for investors to execute transactions at competitive prices. By facilitating short-selling activity during these periods, the temporary

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[25] 17 CFR 242.203(d).

exemption could help support the development of a more liquid and efficient extended-trading hours market.

The exemption's limited scope and temporary duration, together with the continued applicability of other regulatory safeguards, provide appropriate flexibility to facilitate liquidity during extended-hours trading. In particular, Rule 204 of Regulation SHO, including its close-out requirements and penalty provision, would continue to apply to failures to deliver arising from short sales effected during extended hours. In addition, Rule 10b-21 and other applicable antifraud provisions would continue to prohibit deceptive or manipulative conduct. They would continue to provide important safeguards against fails-to-deliver and potentially abusive "naked" short selling during the temporary exemption period.

The basis for this temporary exemption is the distinct operational challenges associated with satisfying that requirement while the infrastructure supporting extended-hours trading continues to develop. Accordingly, the Commission believes that limiting the exemption to extended-hours trading appropriately targets the operational challenges that could otherwise impede short selling activity and the associated liquidity and pricing efficiency benefits, while preserving the locate requirement during regular trading hours.

The temporary nature of the exemption also reflects the Commission's expectation that the operational challenges associated with satisfying the locate requirement during extended-hours trading will diminish in relatively short order as extended-hours trading commences and market participation increases. In particular, as trading activity expands outside of regular market hours, the Commission anticipates that securities lending desks and other market participants providing securities lending services will respond to increased demand by extending their availability and enhancing the systems and processes necessary to support borrowing activity during those hours. Similarly, broker-dealers are expected to develop and adapt their systems for obtaining and documenting locates to accommodate extended-hours trading. Accordingly, the

Commission believes that the operational limitations underlying the need for this exemption are temporary in nature.

For these reasons, the Commission finds that the temporary exemption is appropriate in the public interest and consistent with the protection of investors. The exemption is narrowly tailored to address operational challenges specific to extended-hours trading while facilitating short selling activity that could contribute to greater liquidity, more competitive pricing, and improved price discovery during those periods. The Commission believes that the potential benefits of facilitating short selling during extended-hours trading, together with the limited scope and duration of the exemption and the continued application of other regulatory safeguards, support granting this temporary relief.

V. Conclusion

Accordingly, IT IS HEREBY ORDERED, pursuant to section 36(a)(1) of the Exchange Act, and Rule 203(d) of Regulation SHO, that the temporary exemptive relief set forth above is granted from compliance with the locate requirement in Rule 203(b)(1), for broker-dealers effecting short sales during trading occurring outside of 9:30 a.m. to 4 p.m. ET, until November 23, 2027.

By the Commission.

Vanessa A. Countryman,

Secretary.

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