



FEBRUARY 2009

FSA REVIEWS SHORT SELLING MEASURES

The UK Financial Services Authority (FSA) recently adopted the Short Selling (No. 5) Instrument 2009 (the Short Selling Instrument), which ends the ban on short selling in UK financial sector companies, and extends the disclosure requirements for significant short positions held in such companies until 30 June 2009. The Short Selling Instrument came into force on 16 January 2009.

The FSA considers non-compliance with the Short Selling Instrument provisions to amount to market abuse under the Financial Services and Markets Act 2000, and as such non-compliance may result in the same consequences as any other breach of the market abuse regime, including a fine or a public censure. The list of companies whose securities are affected is available at:

http://www.fsa.gov.uk/pubs/other/Shortselling_list.pdf

AMENDED DISCLOSURE REQUIREMENTS

Since 18 September 2008, the FSA has required the daily disclosure of investors' net short position of 0.25% or more of the issued share capital of a UK company held at market close on the previous working day (the Disclosure Obligation).

The Short Selling Instrument amends the Disclosure Obligation so that once made, further disclosures are only required on a short position changing, reaching, exceeding or falling below disclosure bands placed every 0.1% above the 0.25% threshold, i.e., at 0.35%, 0.45%, etc. In addition, a final disclosure is required when a position decreases below 0.25%. The holder of such position is required to disclose it to the market via a Regulatory Information Service (RIS) announcement by 3:30 p.m. on the business day following the day the Disclosure Obligation arises.

EXCEPTIONS

Market-makers continue to be exempt from the Disclosure Obligation. For the purposes of the Short Selling Instrument, the FSA considers as market-makers entities that, as part of their business, ordinarily deal as principals in equities, options or derivatives, whether OTC or exchange-traded, to fulfill orders received from clients, to respond to a client's request to trade or to hedge positions arising out of those dealings, and/or in a way that ordinarily has the effect of providing liquidity on a regular basis to the market on both bid and offer sides of the market in comparable size. Trading in circumstances other than genuinely for the provision of liquidity is not exempt.

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INTERNATIONAL FUNDS GROUP

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