

Economic Stabilization Advisory Group | February 12, 2010

Global Clampdown on Short Selling: an Overview (v6)

This memorandum summarizes the measures taken in the main financial jurisdictions worldwide to prohibit or place regulatory restrictions on short selling.¹ These short selling restrictions were prompted by the concern that steep falls in the share prices of financial institutions would undermine confidence in those institutions and hamper their efforts to raise capital. Regulators took the view that short selling was exacerbating market falls.

The restrictions on short selling increase the risks for a number of financial institutions, from hedge funds to the proprietary trading desks of banks. Short selling has historically been an integral part of many trading and investing strategies, and also a hedging tool. Those engaged in such activities must now ensure they do not fall foul of the new restrictions.

An independent quantitative analysis² published on February 9, 2010 by management consultancy Oliver Wyman indicates that short selling public disclosure requirements lead to a decrease in short sellers' participation in equity markets by approximately 20-25%. The decrease in short selling liquidity has a material impact on the markets for the affected securities in that trading volume reduces, bid-ask spreads widen, there is less efficient price discovery and intraday volatility increases. The report concludes that the combined effect is that markets adopting such requirements are more expensive and difficult venues for investors.

The restrictions imposed by regulators have largely been temporary measures. Some of the measures are starting to be removed or 'lightened'. Some jurisdictions are now considering longer-term proposals on short selling. In Europe, the Committee of European Securities Regulators (the "CESR") is considering the impact of the temporary measures that have been introduced and aims to ensure a coordinated approach is taken by EU regulators in future, particularly on the issue of whether certain short selling restrictions or obligations should be made permanent.

¹ Short selling is the practice of profiting from declines in the prices of securities by selling securities that the seller does not own, but which the seller borrows from another party. The seller returns the securities to the lender by buying them back from the market after their price has fallen. Traders can also take a short position in a security by, among other things, buying a put option or selling a future.

² The report by Oliver Wyman is available at: http://www.managedfunds.org/downloads/Oliver_Wyman_Financial_Services_Report.pdf.

In June 2009 the International Organization of Securities Commissions ("IOSCO") published its report on short selling.³ The report recommends that effective regulation of short selling comprises the following four principles:

- a) short selling should be subject to appropriate controls to reduce or minimize the potential risks that could affect the orderly and efficient functioning and stability of the financial markets;
- b) short selling should be subject to a reporting regime that provides timely information to the market or to market authorities;
- c) short selling should be subject to an effective compliance and enforcement system; and
- d) short selling regulation should include appropriate exemptions for certain types of transaction for efficient market functioning and development.

IOSCO is of the view that abiding by these four principles would help to bring forth a more consistent international regulatory approach to short selling, whilst allowing for substantial variation in the approaches of national regulators in market specific circumstances.

This note is an updated version of the previous version which was published on January 16, 2009.⁴ Regulators in some jurisdictions have, since then, adopted further measures or made amendments to the measures previously adopted.⁵ The current version of the note takes into account those measures and is based on information available to us on February 12, 2010.

³ The IOSCO Report on short selling is available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD292.pdf>.

⁴ The following jurisdictions had adopted further measures or amended previous measures: Australia, Belgium, China, France, Germany, Italy, the Netherlands, the United Kingdom, and the United States. The update is available at http://www.shearman.com/esag_011609/.

⁵ Australia, Belgium, France, Germany, Hong Kong, India, Italy, Japan, The Netherlands, Russia, Singapore, United Kingdom, United States.

UNITED STATES OF AMERICA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	EXEMPTIONS	OTHER PROVISIONS
<p>Amendments to Regulation SHO; penalties for failure to close failed positions</p>				
<p>On July 27, 2009, the SEC made permanent Rule 204T to Regulation SHO, adopting it as Rule 204 of that Regulation (the "Regulation SHO Order"). Rule 204 imposes penalties for failing to deliver an equity security</p>	<p>(a) Rule 204 of Regulation SHO imposes a penalty on any "participant" of a "registered clearing agency", and any broker-dealer from which it receives trades for clearance and settlement, for having a fail to deliver position at a registered clearing agency in any equity security. Specifically, any participant of a registered clearing agency must, by no later than the beginning of regular trading hours on the settlement day following the settlement date, immediately close out the fail to deliver position by borrowing or purchasing securities of like kind and quantity.</p> <p>Any participant and related broker-dealer who does not comply with the close-out rules discussed above (i) will be prohibited from accepting a short sale order in the equity security from another person, and (ii) will be prohibited from effecting a short sale in the equity security for its own account, without first borrowing the security or entering into a <i>bona fide</i> arrangement to borrow the related security. Furthermore, any such participant must notify any broker or dealer from which it receives trades for clearance and settlement of the existence of a fail to deliver position that has not been</p>	<p>Rule 204 affects all publicly traded equity securities.</p>	<p>Rule 204 provides the following exemptions:</p> <ul style="list-style-type: none"> ▪ Participants that can demonstrate on their books and records that such fail to deliver positions resulted from a long sale must deliver securities of like kind and quality by no later than the beginning of regular trading hours on the third consecutive settlement day following the settlement date; ▪ Participants that fail to deliver positions in Rule 144 securities must deliver securities of like kind and quality by no later than the beginning of regular trading hours on the thirty-sixth consecutive settlement day following the settlement date; ▪ Participants with fail to deliver positions attributable to bona fide market making activities by a registered market maker, options market maker, or other market maker obligated to quote in the over-the-counter market ("Market Makers") must deliver securities of like kind and quantity by no later than the beginning of regular trading hours on the third consecutive settlement day following the settlement date; and ▪ Brokers or dealers who purchase 	<p>Rule 10b-21: On October 14, 2008, the SEC adopted the previously proposed Rule 10b-21, which is an antifraud rule that prohibits any person from intentionally deceiving a broker-dealer, or a buyer, as to the intention or ability of that person to deliver shares on the settlement date. This rule is not intended to limit or restrict the applicability of the general antifraud provisions of the federal securities laws.</p>

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	<p>closed out in accordance with the rule (together with (i) and (ii) above, the "Penalties").</p> <p>(b) If a participant of a registered clearing agency reasonably allocates a portion of a fail to deliver position to another registered broker or dealer for which it clears trades or from which it receives trades for settlement, based on such broker's or dealer's short position, the provisions of Rule 204 apply to such registered broker dealer only. A broker or dealer that has a fail to deliver position must immediately notify the participant that it has become subject to the Penalties.</p> <p>Rule 203(b)(3) of Regulation SHO was amended to eliminate the options market maker exception from Regulation SHO's close-out requirement. Under Regulation SHO as it existed prior to this amendment, the requirement to close failed positions in certain "threshold" securities did not apply to short sales by a registered options market maker, if and to the extent that the short sales are effected by the registered options market maker to establish or maintain a hedge on an options position that was created before the security became a threshold security.</p>		<p>securities prior to the beginning of regular trading hours on the settlement day after the settlement date for a long or short sale to close out an open short position, and if (a) the purchase is bona fide; (b) the purchase is executed on, or after, the trade date but by no later than the end of regular trading hours on the settlement date for the transaction; (c) the purchase is of a quantity of securities sufficient to cover the entire amount of the open short position; and (d) the broker or dealer can demonstrate that it has a net long position or net flat position on its books and records on the settlement day for which the broker or dealer is seeking to demonstrate that it has purchased shares to close out its open short position (the "Broker Dealer Exemption").</p> <p>The Penalties will not apply to the following:</p> <ul style="list-style-type: none"> ▪ Brokers or dealers who timely certify to the participant of a registered clearing agency that they have not incurred a fail to deliver position on a settlement date for a long or short sale in an equity security for which the participant has a fail to deliver position at a registered clearing agency or that they are in compliance with the Broker Dealer Exemption; and ▪ Market Makers that can demonstrate that they do not have open short positions in the equity security at the time of any additional short sales. 	

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<p>Proposed Price Test</p> <p>On April 10, 2009, the SEC proposed the reinstatement of a price test (the "Price Test Proposal Order") that will, if adopted, prohibit short sales when certain price tests are met.</p> <p>The Price Test Proposal Order comment period was extended and additional comments were solicited by the SEC on August 17, 2009.</p>	<p>The Price Test Proposal Order requests comment regarding five different price-based prohibitions on short selling. These are: (i) a "Modified Uptick Rule", which would be a market-wide short sale price test based on the national best bid; (ii) a reinstatement of the "Uptick Rule", which is a market-wide short sale price test based on the last sale price; (iii) a "Circuit Breaker Halt Rule", which would ban short selling in a particular security if price suffers a specified decline; (iv) a "Circuit Breaker Modified Uptick Rule", which imposes the Modified Uptick Rule to a particular security if price suffers a specified decline; and (v) a "Circuit Breaker Uptick Rule" that imposes the uptick rule to a specific security if price suffers a specified decline.</p> <p>As of the date of this publication, the SEC has not specified which of the five proposed rules may be taken by the SEC for adoption. The August 17, 2009 release did, however, focus on a request for comments related to the "Modified Uptick Rule".</p>	<p>Each of the five proposed rules would broadly affect all stocks trading on US markets. However, certain of the proposals (the "Circuit Breaker" Rule proposals) would apply short selling prohibitions to specific securities that suffer a particular decline in price.</p>	<p>Each of the proposed rules is accompanied by proposed exemptions. For the "market basked" proposals ("Modified Uptick" and "Uptick" rules), these include exemptions for restricted securities; domestic and international arbitrage; syndicate transactions; riskless principal transactions; and VWAP transactions. For the "Circuit Breaker" proposals, these include exemptions for: syndicate transactions; market making; certain derivatives; options and futures contract expiration; and restricted securities.</p>	
<p>Form SH Order</p> <p>The SEC issued an emergency order on September 18, 2008 (the "Form SH Order"), that required institutional money managers that exercise discretion over \$100,000,000 or more to file a new form (Form SH) with the SEC weekly.</p>	<p>Form SH was non-public and required institutional investment managers that exercise "investment discretion" with respect to accounts holding "section 13(f) securities" having an aggregate fair market value on the last trading day of any month of any calendar year of at least \$100,000,000</p>	<p>Section 13(f) securities are "equity securities of a class described in section 13(d)(1) of the Act that are admitted to trading on a national securities exchange or quoted on the automated quotation system of a registered securities association." (Rule 13f-1(c) of the U.S. Securities and</p>	<p>There were a series of exemptions to the filing requirement, including: (i) where no short sales were made during the period, (ii) where short sales during the period were below certain minimum thresholds, and (iii) "riskless principal" transactions.</p>	<p>The Temporary Form SH expired on August 1, 2009.</p>

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<p>The Temporary Form SH expired on August 1, 2009.</p>	<p>to file a new form with the SEC. Form SH was filed electronically with the SEC on the last business day of every calendar week immediately following a week in which the manager effected short sales.</p> <p>For each section 13(f) security sold during the previous week, Form SH required the following daily information:</p> <ul style="list-style-type: none"> ▪ the date of the transaction; ▪ the institutional investment manager by EDGAR Central Index Key; ▪ the issuer name and CUSIP for the relevant securities; ▪ the start of day short position; ▪ the gross number of securities sold short during the day; and ▪ the end of day short position. 	<p>Exchange Act of 1934).</p>		

EU JURISDICTIONS

Short selling under the European Market Abuse Directive

The Market Abuse Directive is a measure adopted by the European Union to impose a uniform regime for dealing with market abuse. The Directive has been implemented in all the European Union countries. It does not prohibit short selling as such. However, any short selling activity will fall within the prohibitions of the Directive if it involves "insider dealing" (Articles 2 and 3 of the Directive) or "market manipulation" (Article 5 of the Directive). Many EU jurisdictions have a set of rules that define in detail what does and does not amount to market abuse. The recent measures against short selling have usually taken the form of a clarification of these rules that effectively regards short selling of certain securities to be market abuse, by taking the view that such short selling in times of extreme market volatility effectively involves market manipulation.

The Committee of European Securities Regulators issued a consultation on a permanent pan-European disclosure regime that would apply to shares of EEA issuers and issuers solely or primarily admitted to trading on EEA markets – regulated exchanges and MTFs, and all positions which involve an economic exposure to such equity securities, including exchange-traded & OTC derivatives. An exemption would be available for market making activities. The disclosure thresholds would be as follows: tier 1: private disclosure to regulator of net short positions of 0.10% of issued share capital; and tier 2: public disclosure of net short positions of 0.50% of issued share capital. Rights issues would have lower thresholds of 0.10% (private) and 0.25% (public). Further disclosure would be required for every 0.10% increase or if a position fell below any trigger threshold. Disclosure would be made by a specified time on the trading day following the day on which the relevant trigger threshold was crossed. The contents of the disclosure would include the identity of the short position holder, the identity of the issuer, the size of the position and the date the position was created or ceased.

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<p>The UK's Financial Services Authority ("FSA") had previously adopted measures that effectively treated the creation or increase of a net short position in a UK financial sector company as market abuse. It also imposed disclosure obligations on those holding a 'disclosable short position' in such companies.</p> <p>These measures took the form of amendments to the Code of Market Conduct of the FSA Handbook. The Code constitutes authoritative guidance on the market abuse offence (prohibited by section 118 of the Financial Services and Markets Act 2000).</p>		<p>It is market abuse for a person with a "disclosable short position" to fail to make "adequate ongoing disclosure" of that position.</p> <p>Disclosable short position: means a net short position representing an economic interest of 0.25% or more of the issued (ordinary and preference) share capital of a company, excluding any interest held as market maker in that capacity. A holder of economic interests in a UK Financial Sector</p>	<p>It is market abuse for a person with a "disclosable short position" to fail to make "adequate ongoing disclosure" of that position.</p> <p>Disclosable short position: means a net short position representing an economic interest of 0.25% or more of the issued (ordinary and preference) share capital of a company, excluding any interest held as market maker in that capacity. A holder of economic interests in a UK Financial Sector</p>	<p>Persons acting in the capacity of market makers (which can include those who are not registered as market makers with an exchange) are exempt from the amended disclosure obligation, including the disclosure obligation that relates to rights issue securities.</p> <p>A market maker is defined as an entity that ordinarily, as part of its business, deals as principal in equities, options or derivatives (whether OTC or exchange-</p>	<p>Fund managers:</p> <p>If a fund manager holds short positions on behalf of a non-discretionary client, the disclosure obligation applies to the client. The fund manager can disclose on behalf of a client, but the disclosure must clearly identify that it is the client who holds the disclosable position.</p> <p>In the case of discretionary clients, the disclosure obligation applies at</p>

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<p>The 'ban' on the short selling of financial company stocks expired at 00:00:01 on January 16, 2009.</p> <p>Currently, the FSA requires disclosure to the market of net short positions of 0.25% or more of the issued share capital of UK financial sector companies or companies carrying out a rights issue.</p> <p>The FSA is still in the process of consultation on its proposals to impose a permanent disclosure requirement for the short selling of all stocks, not just those of financial services companies, using an initial disclosure threshold of 0.5% of issued share capital.</p> <p>The FSA has stated however that in moving forward it will work with CESR and any change will stem from European co-operation.</p> <p>In October 2009 the FSA published feedback from its consultation and indicated that it will not make any significant changes to its proposals. The FSA responses can be found at http://www.fsa.gov.uk/pubs/discussion/fs09_04.pdf</p> <p>Financial Services Bill</p> <p>The Financial Services Bill, currently passing through the House of Lords proposes to give the FSA with the power to prohibit persons from engaging in short selling and to require certain disclosures. The FSA can only act in short selling regarding financial instruments which are admitted to trading on or otherwise connected to an EEA market or which are dual listed in the UK or the EEA and another jurisdiction. In the latter</p>		<p>Company may net its long and short positions in that company. The disclosable position will be any net short position of 0.25% or above.</p> <p>Adequate ongoing disclosure: is disclosure on a Regulatory Information Service (such as the London Stock Exchange's RNS service) by no later than 3.30 p.m. on the business day following the day on which the position reaches, exceeds or falls below a disclosable short position of 0.25%, 0.35%, 0.45% and 0.55% of the issued share capital of the company and each 0.1% threshold thereafter.</p> <p>Thus, a person must disclose any new net short position of 0.25% or more in a UK financial sector company. Once a disclosure has been made, additional disclosures are only required if the short position reaches, exceeds or falls below disclosure bands placed every 0.1% above the 0.25% threshold, i.e. 0.35%, 0.45%, 0.55% etc. If a net short position decreases below 0.25% a disclosure will also need to be made.</p> <p>The previous measures required adequate ongoing disclosure on</p>	<p>Company may net its long and short positions in that company. The disclosable position will be any net short position of 0.25% or above.</p> <p>Adequate ongoing disclosure: is disclosure on a Regulatory Information Service (such as the London Stock Exchange's RNS service) by no later than 3.30 p.m. on the business day following the day on which the position reaches, exceeds or falls below a disclosable short position of 0.25%, 0.35%, 0.45% and 0.55% of the issued share capital of the company and each 0.1% threshold thereafter.</p> <p>Thus, a person must disclose any new net short position of 0.25% or more in a UK financial sector company. Once a disclosure has been made, additional disclosures are only required if the short position reaches, exceeds or falls below disclosure bands placed every 0.1% above the 0.25% threshold, i.e. 0.35%, 0.45%, 0.55% etc. If a net short position decreases below 0.25% a disclosure will also need to be made.</p> <p>The previous measures required adequate ongoing disclosure on</p>	<p>traded):</p> <p>(i) To fulfill orders received from clients, to respond to a client's requests to trade or to hedge positions arising out of those dealings; and/or</p> <p>(ii) 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.</p> <p>Trading in circumstances other than genuinely for the provision of liquidity is not exempt. This exemption covers market makers only when, in the particular circumstances of each transaction, they are acting in that capacity.</p>	<p>the level of both the entity holding the position and at the level of the investment manager or authorised fund manager. The investment manager or authorised fund manager may make a disclosure on behalf of its client. In respect of itself, the investment manager or authorised fund manager is required to disclose its aggregate disclosable short position across all of the funds it manages on a discretionary basis.</p> <p>Where a disclosure by an investment manager or authorised fund manager is the same as that being made for its client / fund / sub-fund, it is permitted to make a single disclosure provided that the disclosure makes it clear that it applies to both parties.</p> <p>Different trading desks:</p> <p>If a firm has several trading desks that are part of the same legal entity, the aggregate position of the legal entity is taken into account, excluding positions falling within the market maker exemption.</p>

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<p>case the FSA can make and enforce short-selling rules against all of the financial instruments in as far as they are admitted to trading on the market in the UK.</p> <p>It should be noted that the FSA powers are restricted in terms of the financial instruments and not the identity of the person carry out the short-selling. The FSA may, therefore, prohibit short-selling and require disclosure from persons who are not authorised persons.</p>		<p>each day that the disclosable short position changed (even if the change was less than an increment or decrement of 0.1%).</p>	<p>each day that the disclosable short position changed (even if the change was less than an increment or decrement of 0.1%).</p>		
MEASURES ELATING TO RIGHTS ISSUE SECURITIES					
<p>On June 12, 2008, the FSA adopted the Short Selling Instrument 2008.</p> <p>The Instrument, which came into effect on June 20, 2008, inserts new provisions – paragraphs 1.9.2A(E) and 1.9.2B(R) – into the Code of Market Conduct.</p> <p>The effect of these new Code provisions is effectively to impose a disclosure requirement on those reaching or exceeding a disclosable short position (an economic interest greater than or equal to 0.25% of the issued capital) in rights issue securities.</p>		<p>Rights issue securities: the measure applies to securities which are the subject of a rights issue and the position is reached or exceeded during a rights issue period.</p> <p>The securities must also have been admitted to trading on a market established under the rules of a recognized investment exchange (including the London Stock Exchange, virt-x, AIM or PLUS) or in respect of which a request for admission to trading on such a market has been made.</p> <p>“Rights issue period” is the period that commences on the date a company announces a rights issue and which ends on the date that the shares issued under the rights issue are admitted to trading on a prescribed market.</p>		<p>Positions held in the capacity of market maker are excluded when determining whether a “disclosable short position” has been reached or exceeded.</p>	<p>If a UK Financial Sector Company enters into a rights issue period, trading in relation to its securities is subject to both the disclosure obligation discussed in this section and the disclosure obligation set out above.</p> <p>When calculating a net short position in a rights issue period, a person should only include economic interests in the pre-existing share capital of the company. Economic interests relating to share capital that will be issued in the future must be excluded from the calculation. A person cannot, therefore, net off a short position in the company's pre-existing share capital with a long position in the nil-paid rights. Similarly, nor can a prospective long position in the new shares</p>

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					arising from an underwriting/sub-underwriting commitment be netted off. This applies in respect of the paragraphs 1.9.2A E and 1.9.2D E of the Code of Market Conduct. The denominator for the calculation of a net short position should be the undiluted share capital.

BELGIUM

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The Banking Finance and Insurance Commission ("CBFA") adopted new rules on September 19, 2008, which were confirmed by a Royal Decree of September, 23, 2008.</p> <p>The rules are intended to prohibit "naked shorting", <i>i.e.</i> selling shares to another without 'complete coverage' (e.g. where the seller does not own or has not borrowed the shares).</p> <p>The new rules came into force at 00.01 a.m. on Monday September 22, 2008.</p> <p><i>The rules were originally set to cease to have effect on December 21, 2008, but they have been extended for a limited period several times, eventually being extended for an indefinite period by Royal Decree of September 22, 2009.</i></p>	<p>Prohibition on uncovered short positions.</p> <p>Short positions without adequate coverage are prohibited.</p> <p>The short seller must have coverage consisting of the securities that have been sold or the securities to which a derivative transaction relates. Coverage through derivatives is not adequate: the seller must either possess the securities concerned before selling them on the market or before creating a covered short position.</p> <p>Short positions arising due to a derivative instrument must also be adequately covered. The rules cover both OTC and exchange-traded instruments and even transactions entered into abroad.</p> <p>Adequate coverage includes:</p> <ul style="list-style-type: none"> ▪ Possession of the securities prior to selling (e.g. by borrowing the securities¹); ▪ Putting in place securities lending arrangements prior to selling on the basis of which the securities will be delivered at the 	<p>The measures apply to stock (<i>i.e.</i> shares) and any kind of derivative instrument (including futures) in the following financial institutions:</p> <p>Dexia SA</p> <p>Fortis NV/SA</p> <p>KBC Groep NV</p> <p>KBC Ancora CVA²</p>	<p>Anyone who holds a net economic short position which represents an economic interest in excess of 0.25% of the capital of the issuers of the stocks affected must report this to the CBFA and the market by any appropriate means.</p> <p>"Net economic short position" means any instrument (shares, contracts for differences, spread bets, options, etc) giving rise to an exposure, whether direct or indirect, in the equity share capital of the company.</p> <p>The disclosure obligation does not apply to orders entered prior to 00.01 a.m., on September 22, 2008.</p> <p>Disclosure to the market must be made through an internationally-distributed press release. As for notification to the CBFA, market participants can send their notification either by email to info.fin@cbfa.be or by fax to + 32 2 220 59 03.</p> <p>The disclosure to the market must be on a net basis, whilst that to the</p>	<p>The following exemptions apply:</p> <p>(i) Market makers on the derivatives market and liquidity providers on the cash market (as defined in the Rulebook of Euronext) are exempt.</p> <p>(ii) Block trade counterparties are also exempt: financial intermediaries (licensed banks and investment companies) may sell blocks to their clients without having the securities at hand and therefore have a temporary short position. However, when a client wants to sell a block to his intermediary, the latter must ascertain that his client has appropriate coverage.</p> <p>(iii) Financial intermediaries (licensed banks and investment companies) that are usually active as market makers in OTC markets (cash or derivatives) by offering sell and buy prices are also exempt.</p>	<p>Fund Managers:</p> <p>In the case of short positions held by fund managers on behalf of non-discretionary clients, the obligations apply to the client.</p> <p>In the case of short positions held by fund managers on behalf of discretionary clients, the fund manager is subject to the obligations.</p> <p>Where the fund manager has a mandate to manage more than one individual fund, it should aggregate all the positions of its discretionary funds for the purposes of determining whether it is required to make disclosure.</p> <p>Different legal entities in a group:</p> <p>Where short positions are held across different legal entities, the calculation of the net short position and the disclosure should be made at the group level.</p>

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	<p>latest at D+3 where D is the date of the short-sale; and</p> <ul style="list-style-type: none"> ▪ Buying the securities prior to selling them where the securities will be delivered at the latest on D+3. <p>Qualified intermediaries are required to take reasonable measures to ascertain that their clients have appropriate coverage for their proposed transactions. For clients with direct market access, intermediaries should, as a minimum, obtain a general representation about their coverage.</p>		<p>CBFA has to be on a gross basis. The aggregated net economic short position should be broken down into its component parts.</p> <p>If a person's net short position falls below 0.25%, then one last disclosure of that fact is required.</p> <p>The disclosure obligation also applies to those with a net short position that arises after September 21, 2008; not as a result of any transaction if it is at or above the 0.25% threshold.</p>		

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CBFA has requested market participants (including collective investment schemes) to refrain from lending the securities concerned, except in three very specific cases: (i) lending the securities in order to cover a position existing prior to September 22, 2008; (ii) lending the securities in order to respect commitments made before the same date; or (iii) if the lending concerns an operation without any link to an economic short position taken.

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The Royal Decree of September 22, 2009 amending the Royal Decree of September 23, 2008 has adapted the list of issuers to which those measures apply, as a result of which the Belgian rules no longer apply to transactions in financial instruments of or associated with ING Groep NV, that has its prime listing in The Netherlands.

FRANCE

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The French <i>Autorité des Marchés Financiers (AMF)</i> issued a press release on September 19, 2008 (available in English at http://www.amf-france.org/documents/general/8424_1.pdf) and a Q&A on September 23, 2008 (available in English at http://www.amf-france.org/documents/general/8429_1.pdf) to deal with short selling of financial sector stocks.</p> <p>This press release strengthens already existing measures inserted in the <i>Règlement général de l'AMF</i> (General rules of the AMF). The most significant of these pre-existing measures is that an investor must be able to deliver securities sold three trading days after the trade date (see the last paragraph of the Prohibitions/Restrictions column).</p> <p>The new measures came into force on September 22, 2008 for a three-month period. On December 19, 2008, July 24, 2009 and January 27, 2010, the AMF decided to keep in place these measures pending a permanent pan-European regime.</p>	<p>It is prohibited (regarded as the offense of market abuse) for a person to enter into a transaction (defined as any spot, forward or optional transactions whether for own account or for third parties) with the purpose or effect of violating or circumventing the following provisions:</p> <ul style="list-style-type: none"> ▪ Any investor giving a sell order for one of the affected securities with deferred settlement service requested must hold 100% of the securities (including through a stock loan) to be sold on its account with its financial intermediary. ▪ Any investment service provider receiving a sell order for one of the affected securities must require its client to deposit the securities to be sold on its account with the investment service provider before the order is executed. If the investment service provider is not the custodian of the client's assets, it must get an explicit statement from the client that it holds the relevant securities. This explicit statement may take the form of a client's 	<p>The restrictions apply to a naked short selling of stocks of "credit institutions or insurance companies" whose shares are admitted to trading on a regulated market in France (<i>i.e.</i> Euronext Paris, MATIF and MONEP).</p> <p>The AMF has compiled an exhaustive list of such companies which can be found in English at http://www.amf-france.org/documents/general/8425_1.pdf.</p>	<p>It is market abuse for any person holding a net short position representing an economic interest of 0.25% or more of the issued share capital of an affected company to fail to disclose it to the AMF and to the public at the latest on the trading day following the date of the transaction (a specific form is available in English at http://www.amf-france.org/documents/general/8435_1.pdf).</p> <p>The AMF clarified some issues related to disclosure obligations. In particular:</p> <ul style="list-style-type: none"> ▪ Positions in the same group shall be calculated on a consolidated basis. ▪ Portfolio management companies must aggregate all of the short positions in the stocks of a given issuer for CIS or management account. 	<p>Neither the prohibition nor the disclosure obligation apply to investment service providers acting as market makers, liquidity providers or as counterparties for block trades in equities.</p> <p>Market makers and liquidity providers are defined for these purposes as market members that have a contract with Euronext or that manage a liquidity contract signed with the issuer or are authorized financial intermediaries in France whose regular business is to quote bid and ask prices on OTC or cash or derivative markets.</p> <p>The AMF has explained that intermediaries acting as counterparties for block trades in equity may respond to a client's buy order without owning the securities and thus find themselves temporarily in a short position. However, if the client gives a sell order where the intermediary is likely to act as counterparty, the intermediary must ensure that the client actually owns the affected securities.</p>	<p>For orders in the order book but not executed on or before September 22, 2008, the intermediary must ascertain that the sellers actually own the securities and, if the intermediary is not the custodian, the client must provide a formal statement to this effect. Otherwise, such orders must be cancelled.</p> <p>As regards the creation of a short position using derivatives, the AMF clearly stated that investors are not allowed to use derivatives to create a short position. They may only use derivatives to hedge long positions.</p> <p>The AMF further stated that trades in index derivatives are not prohibited per se. However, if the hedging of such trades requires the sale of affected securities, the seller must own the securities at the time of the intended sale.</p>

FRANCE

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
	<p>undertaking to comply with the ownership requirement.</p> <p>Although stock loans are not prohibited outright, financial institutions are required to abstain from lending the affected stocks. However, financial institutions may lend affected shares in order to cover existing positions, to meet commitments made before these measures were implemented or if the transaction is not related to creating short positions.</p> <p>The AMF further stressed, on July 24, 2009, the following issues that it considers vitally important:</p> <ul style="list-style-type: none"> - The seller should be strictly obliged to deliver securities sold on a regulated market or a multilateral trading facility within the standard settlement cycle (T+3). If the seller fails to remedy a non-delivery within six days of the trade date at most, its position should be bought in at the highest price recorded since the trade. - To be in a position to comply with its delivery obligation, a short seller should, prior to trading, conclude an agreement in principle with a securities lender, enabling delivery at T+3. 				

GERMANY

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The General Decrees issued on September 19, and 21, 2008 by the German Federal Financial Supervisory Authority (BaFin) prohibiting naked short sales of shares of eleven companies in the financial sector, lapsed on January 31, 2010.</p> <p>A renewal or reinstatement of the short-selling prohibition is currently not contemplated by BaFin because of the stabilization of the financial markets in the last few months.</p> <p>Nevertheless, BaFin will continue to monitor the financial markets and has said that it will issue new General Decrees with respect to naked short sales of shares if deemed necessary to sustain the stability on the financial markets.</p> <p>We summarize the former General Decrees herein for your information. Please note that none of the General Decrees described herein are currently in effect:</p> <p>The Federal Financial Supervisory Authority (BaFin) on September 19, 2008 issued a General Decree temporarily prohibiting naked short sales of shares of eleven companies in the financial sector not covered by the prohibition.</p>	<p>The decree which expired on January 31, 2010 prohibited transactions that result in a short position or in an increase in a short position in shares issued by certain specified companies in the financial services sector. Only naked short transactions, <i>i. e.</i> transactions in the specified shares that are not backed by securities lending, were affected by the prohibition.</p> <p>The ban also applied to intra-day short positions.</p> <p>A short position within the meaning of the decree arose when at the time of the transaction if the seller of the shares:</p> <p>(a) Did not own such shares; or</p> <p>(b) Did not have any enforceable legal claim under the law of obligations or under property law (i) to be transferred title in shares of the same class, or (ii) that results in the title in shares of the same class being transferred.</p> <p>In consequence, in case of (non-prohibited) short sales backed by securities lending, such securities lending transactions must have been concluded simultaneously with the respective short sale at the latest.</p>	<p>The prohibition applied to short sales of shares of the following financial sector companies:</p> <ul style="list-style-type: none"> • Aareal Bank AG • Allianz SE • AMB Generali Holding AG • Commerzbank AG • Deutsche Bank AG • Deutsche Börse AG • Deutsche Postbank AG • Hannover Rückversicherung AG • Hypo Real Estate Holding AG • MLP AG • Münchener Rückversicherungs-Gesellschaft AG 	<p>The decree did not contain any specific disclosure obligations in addition to the general disclosure obligations for securities transactions under the German Securities Trading Act (<i>Wertpapierhandelsgesetz, WpHG</i>). Such disclosure rules do not provide for any notification obligations for short selling transactions.</p>	<p>The decree provided for the following exemptions:</p> <ul style="list-style-type: none"> • "Name-to-follow" transactions (<i>Aufgabegeschäfte</i>) by lead brokers (<i>Skontroführer</i>) within the meaning of Sec. 95 of the German Commercial Code (<i>Handelsgesetzbuch, HGB</i>); • Transactions of persons who were under a contractual obligation to make binding buy and sell bids (<i>e.g.</i> market makers; designated sponsors) to the extent that such transactions were required for the performance of their contractual obligations; and • Short sales used to secure already existing positions. <p>Pursuant to a further decree issued on September 21, 2008, an additional exemption was provided to transactions agreed by market participants with a customer for the settlement of a transaction in shares concluded at a fixed or definable price (so called fixed-price transaction).</p>	

GERMANY

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The ban was supplemented by a General Decree issued on September 21, 2008 to clarify that certain transactions were considered legitimate and were therefore exempted from the ban on short selling.</p> <p>The short-selling prohibition took effect on September 20, 2008 and had an initial term until December 31, 2008. The prohibition was thereafter prolonged several times and expired on January 31, 2010.</p>	<p>As from September 20, 2008, new issues of put instruments (put warrants, put certificates) could no longer be hedged by a short position in shares. The same applied to CFDs to the extent they were hedged by transactions resulting in a net short position in shares.</p> <p>On the other hand, the sale of futures (short futures) and the purchase of put options (long puts) was not affected by the ban. This was also true for the sale of a call option (short call).</p>				

IRELAND

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The Financial Regulator amended the Market Abuse Rules (September 2008) by introducing rules prohibiting short selling of stocks of Irish publicly quoted banks effective from midnight on September 18, 2008 requiring disclosure of certain short positions from September 23, 2008.</p> <p>The Financial Regulator has not stated when the measures will terminate but will keep them under continuous review.</p>	<p>A person, other than a market maker, may not enter into any transaction or arrangement after September 18, 2008 which has the effect of generating a net economic benefit which would arise from a fall in the price of the shares in an Irish publicly quoted bank.</p> <p>The prohibition applies to any new short positions, including increases in existing short positions.</p> <p>Where a person had an existing short position on September 18, 2008, the rule does not prevent that short position being continued, reduced or closed out.</p> <p>Where a net short position arises, but does not arise because the person entered into transactions after September 18, 2008 to create that short position, the prohibition does not apply but the disclosure obligation may apply.</p> <p>A short position may be established post September 19, 2008, provided the short position offsets or partially offsets a long position in relation to the same company.</p>	<p>The restrictions apply to stocks of Irish publicly quoted banks. These are listed in Rule 10.1 of the Market Abuse Rules as:</p> <ul style="list-style-type: none"> ▪ The Governor and Company of the Bank of Ireland; ▪ Allied Irish Banks Plc; ▪ Irish Life and Permanent Plc; and ▪ Anglo Irish Bank Corporation. <p><i>Note, however, that Anglo Irish Bank Corporation was subsequently nationalized and its shares de-listed.</i></p>	<p>Disclosure is required by any person who holds an economic interest involving 0.25 per cent. or more (<i>i.e.</i> the aggregate net short position of 0.25 per cent. or above) of the issued shared capital of one of the Irish publicly quoted banks.</p> <p>Individual short and long positions underlying the net position do not need to be disclosed.</p> <p>Disclosure must be made:</p> <p>(a) By 3.30 p.m. on each day on and after September 23, 2008 (even if the size of the net short position has not changed since the previous disclosure);</p> <p>(b) Using an RIS system. Disclosure can be made directly to an RIS, with simultaneous notification to the Company Announcements Office (the "CAO") of the Irish Stock Exchange Limited. Alternatively, indirect disclosure can be made to an RIS through the CAO.</p> <p>The disclosure must set out the name of the person who has the position, the company in which the position is held, the percentage of</p>	<p>Persons acting in the capacity of market makers are exempt from the prohibition.</p> <p>Market making positions are exempt from the disclosure obligations.</p> <p>A market maker:</p> <ul style="list-style-type: none"> ▪ Is a person who is or has been operating as a market maker ordinarily as part of their business; and ▪ Includes persons recognized as a market maker by a Market Operator. 	<p>The Financial Regulator has indicated that shorting of the ISEQ Index, although covered by the rules as drafted, will not result in any action on its behalf, but this will be kept under review.</p> <p>The prohibition and disclosure obligations apply to all ways in which an economic interest, direct or indirect, can be created, including spread betting and CFDs.</p> <p>The prohibition and disclosure obligations apply throughout the day, including short positions taken intra-day and closed-out before the end of the day.</p> <p>The prohibition and disclosure obligations apply to any person benefiting from creating a short position, including a contracting party and an intermediary who assists in putting the transaction or arrangements in place. The guidance indicates that the person should understand the purpose or consequence of such transactions/arrangements.</p>

IRELAND

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
			<p>the issued share capital of the company and the amount of the position.</p> <p>If the net short position that has previously been notified falls below 0.25 per cent, the Financial Regulator must be informed.</p>		

ITALY

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>Consob, the Italian securities markets regulator, from September 2008 to October 2009, adopted various subsequent restrictive measures on short sales. Such measures ranged from a full fledged ban on short sales regardless of the industry of the issuer and of whether the sale was covered, to an increasingly less restrictive approach.</p> <p>On November 26, 2009, Consob issued Resolution 17078 ("Resolution 17078"), which superseded all previous measures, providing for what appears to be a definitive framework governing short sales¹. Resolution 17078 provides for a prohibition on all short sales on shares of companies listed and traded on Italian regulated markets that are in the process of effecting a capital increase approved on or before November 30, 2009.</p> <p>These restrictive measures are aimed at ensuring the proper conduct of trading and the integrity of the markets, in the context of capital increases, during which companies are particularly exposed to risks related to short selling activities.</p>	<p>Pursuant to Resolution 17078, beginning December 1, 2009, the sale of shares of companies listed and traded on Italian regulated markets that are in the process of implementing a capital increase approved on or before November 30, 2009, and included in a list held by Consob, can be made only when the ordering party has full legal title to, as well as right to dispose of ² the shares (i.e., all short sales of such shares are prohibited).</p> <p>The title to, and right to dispose of the shares must exist from the time of submission of the sale order through the time of settlement of the relevant trade.</p> <p>The prohibition applies:</p> <p>(1) from the day following the approval by the board of directors of the resolution pursuant to which the board either (i) submitted its proposal for the approval of a capital increase to the shareholders, or (ii) requested the shareholders to grant the relevant powers to the board (in the latter case, in the event that the term for the exercise by the board of its powers is uncertain, the relevant resolution will be the board resolution through which the powers are</p>	<p>The names of the companies whose shares cannot be sold short are included in a list published on Consob's website.</p> <p>The companies whose shares would be subject to the restrictive measures are entitled to opt-out and have their names removed from the list.</p> <p>The current version of the list published on Consob's website includes:</p> <ul style="list-style-type: none"> - Class Editori S.p.A. - Eurofly S.p.A. - Giovanni Crespi S.p.A. - I Viaggi del Ventaglio S.p.A. - Omnia Network S.p.A. - Richard Ginori 1735 S.p.A. - Safilo Group S.p.A. <p>This list initially also included UniCredit S.p.A., UniCredit Risparmio S.p.A. and Lottomatica S.p.A. Such companies, however, in accordance with Resolution 17078, opted out of the restrictive regime.</p>		<p>The prohibitions and restrictions do not apply to the activities carried out, in the performance of their functions, by:</p> <p>(i) Market makers whether operating within or outside of the regulated markets; and</p> <p>(ii) Specialists and liquidity providers as defined in Borsa Italiana's Listing Rules, provided that their activity is exercised in connection with their function in the regulated markets.</p>	<p>The operators of the clearing and settlement systems are required to adopt any and all measures to prevent stock market speculations which may cause an unusual price decrease of the affected shares.</p> <p>Participants to the Italian regulated markets have a policing role whereby they are required to adopt all measures necessary to ensure compliance with Resolution 17078 (including when dealing with sale orders made by other intermediaries).</p>

ITALY

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
	effectively exercised); and (2) until the date of completion of the capital increase.				

- 1 Consob expressed the view, in its position paper on short sales dated November 26, 2009, that a general prohibition is no longer necessary and that it may adopt specific measures from time to time in case of need.
- 2 The lending of shares for less than one day (i.e., if the shares are to be returned to the title holder by close of business) does not transfer the right to dispose to the borrower for the purposes hereof; as a result, the right to dispose remains with the title holder.

LUXEMBOURG

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>On September 19, 2008, the <i>Commission de Surveillance du Secteur Financier (CSSF)</i> issued a press release relating to the prohibition of uncovered ("naked") short selling in publicly quoted banks and insurance companies (available in English at http://www.cssf.lu/uploads/media/pre_ssrelease_short_selling290908_01.pdf). On September 29, 2008, the CSSF issued a further press release elaborating on the earlier press release (available in English at http://www.cssf.lu/uploads/media/pre_ssrelease_short_selling290908_01.pdf).</p> <p>The CSSF considers such naked short sales to be incompatible with the regulatory requirements governing market conduct, in particular where such sales distort or manipulate the market.</p> <p>Although the prohibition is considered by the CSSF to be of a temporary nature, no definite date for review thereof has been set by the CSSF.</p>	<p>The CSSF prohibits market participants from carrying out naked short sales where the underlying assets are stocks of a credit institution or insurance undertaking admitted to trading on the regulated market of the Luxembourg Stock Exchange (excluding securities admitted to trading on the Euro MTF), whether for its own account or on behalf of clients.</p> <p>When performing such transactions on behalf of their clients, market participants must ensure that the clients are able to deliver the stocks on the settlement date.</p> <p>Uncovered or naked short selling, in this context, means a transaction (including an OTC one) which results in the creation of a net short position or increases any net short position that was held prior to September 19, 2008. Only net (and not gross) short positions are prohibited (provided there is no duration mismatch between the netted positions).</p> <p>Market participants who are long will be able to hedge their long positions by way of buying protection (in particular in the form of derivatives).</p>	<p>The prohibitive measures apply not only to the shares themselves but to all instruments (e.g. CFDs, options, futures or depository receipts) that give rise to an exposure to the issued share capital of a company, in particular the following institutions:</p> <p>Dexia S.A.</p> <p>Fortis N.V./S.A.</p> <p>Foyer S.A.</p>	<p>There are no particular disclosure requirements.</p>	<p>Market makers are generally exempt from the new short selling prohibitions. This exemption covers market makers only when, in the particular circumstances of each transaction, they are acting in that capacity and with the intention of providing liquidity and exercising genuine market making activities.</p>	<p>In the event that Luxembourg market participants enter into transactions in respect of securities admitted to trading on any other regulated market, they must apply the rules as set out by the competent regulator of that regulated market.</p>

THE NETHERLANDS

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	NOTIFICATION OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>Over the past two years the Netherlands Authority for the Financial Markets ("AFM") has adopted a number of measures relating to the short selling of shares in listed Dutch financial institutions.</p> <p>On September 22, 2008 the AFM first announced measures against the short selling of shares in listed Dutch financial institutions. These measures were restricted to naked short selling. On October 5, 2008 these measures were replaced by new measures with a wider scope which effectively banned all short selling of shares in listed Dutch financial institutions and required the notification of certain net short positions in such shares to the AFM. The measures announced on October 5, 2008 were restated on October 11, 2008 in connection with the entry into force on that date of legislation making clear beyond doubt that the AFM is authorized to take measures regarding short selling. Before that, the legal basis for such measures was not undisputed. These (restated) measures initially applied for a period of 30 days, but were extended several times, with respect to the ban on short selling most recently until June 1, 2009 and with respect to the</p>		<p>The AFM has produced the following list of financial enterprises:</p> <p>Aegon N.V.</p> <p>ING Groep N.V.</p> <p>Fortis N.V.</p> <p>BinckBank N.V.</p> <p>Kas Bank N.V.</p> <p>SNS Reaal N.V.</p> <p>Van der Moolen Holding N.V.</p> <p>Van Lanschot N.V.</p>	<p>Every entity that holds or obtains a short position requiring notification in one of the listed Dutch financial institutions referred to under "stocks affected", is required to notify this short position to the AFM on an ongoing basis. The notification must be made at the latest on the first business day after the day on which the entity concerned acquired a short position requiring notification.</p> <p>A short position requiring notification is a net short position that attains, exceeds or falls below the threshold values of a quarter percent (0.25%) and every subsequent tenth of a percent (0.10%).</p> <p>A net short position is the economic interest related to the total issued capital of one of the listed Dutch financial institutions referred to under "stocks affected", whereby an economic benefit is attained if the price of a share-related security relating to the relevant financial institution drops.</p> <p>In the calculation of whether an entity holds a short position requiring notification, the relevant entity is required to take into account every form of economic interest related to the total issued capital of the relevant listed financial institution, with the</p>	<p>Short positions held by an entity in the capacity of market maker are exempt from the notification requirement.</p> <p>A market maker is a person or entity that, on the financial markets, ordinarily as part of its business, deals as principal in financial instruments at prices it sets, both in the OTC segment and on regulated markets, or on multilateral trading facilities, in a way that ordinarily has the effect of providing liquidity on a regular basis to the market, on the understanding that this applies to both the bid and offer sides.</p> <p>A person or an entity does not have to be a market maker within the definition of the Euronext Rulebook to take advantage of the exemption, nor does it have to be registered with an exchange or platform.</p>	

THE NETHERLANDS

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	NOTIFICATION OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>notification requirement most recently until January 1, 2010.</p> <p>On December 16, 2009, the AFM published new measures, the so-called Temporary Regulations Concerning the Notifying of Short Positions. With these measures the notification requirement set forth in the measures formerly applying is effectively retained albeit that additional thresholds have been added. These new measures will remain in force and effect until withdrawn. Withdrawal will take place as soon as market circumstances allow.</p>			<p>exception of an economic interest held in its capacity as market maker. Such an economic interest can be created by any financial instrument that gives rise, directly or indirectly, to an exposure to the institution's issued share capital.</p> <p>If an entity's net short position falls below the 0.25% threshold, one final notification of that fact is required.</p> <p>In the case of a corporate group, notification must be made at the group level and must clearly state which positions belong to which entities. All the positions within the group must be aggregated.</p>		

NON-EU JURISDICTIONS

AUSTRALIA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The Australian Securities and Investments Commission ("ASIC") lifted the ban on covered short selling of "non-financial securities" as of opening of trading on November 19, 2008, subject to revised disclosure and reporting requirements. The ban on covered short sales of "financial securities" was lifted on May 25, 2009, subject to disclosure and reporting requirements.</p> <p>The Corporations Amendment (Short Selling) Act 2008 (the "Act") became law on December 11, 2008. The Act imposed a legislative ban that commenced on January 8, 2009, and effectively bans all naked short selling, subject to certain exemptions.</p> <p>The Act removed all but one of the exemptions to naked short selling previously contained in the Corporations Act.</p> <p>Exemptions for naked short selling in the Corporations Regulations continue to apply. ASIC has also provided relief through Class Orders.</p> <p>The Act also established a</p>	<p>Naked short selling (subject to certain exceptions).</p>	<p>The ban on naked short selling applies to all securities, subject to certain exceptions.</p>	<p>The Act and the Corporations Regulations provide a disclosure regime for covered short selling of listed financial products. The regime provides for two reporting obligations for short sales: positional and transactional.</p> <p>As at February 8, 2010, where a covered short sale involves a listed financial product, the transaction must be disclosed by the relevant broker to the exchange.</p> <p>Positional reporting requirements will commence no later than April 1, 2010 and will apply to the person with the short position.</p>	<p>The exemptions in place for naked short selling relate to:</p> <ul style="list-style-type: none"> ▪ The giving or writing of certain exchange traded options; ▪ Sales of unobtained financial products which, at the time of sale, can be obtained through the exercise of exchange traded options; ▪ Sales as principal of certain corporate bonds/ debentures valued over A\$ 100 million and government bonds. ▪ Sales of securities or managed investment products through the exercise of certain exchange traded options; and ▪ Certain market making activities. 	<p>The Act has clarified ASIC's powers to omit, modify or vary parts of the Corporations Act relating to short selling and transactions with a substantially similar market effect.</p> <p>ASIC confirmed on January 7, 2009 that the no action position for owners selling from stock lending portfolios continues.</p>

AUSTRALIA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
framework for a permanent short selling disclosure regime to replace the interim disclosure requirements put in place by ASIC in September 2008. Corporations Regulations dealing with disclosure requirements were introduced on November 25, 2009, with staggered commencement dates.					

BRAZIL¹

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The Brazilian Securities Exchange Commission ("CVM") published on October 14, 2008 an explanatory note prepared as a response to a media release of the IOSCO Technical Committee Members' Initiatives Relating To Restrictions on Short Sales. The CVM stated in the note that Brazil already had considerable restrictions and procedures in place relating to short selling. As a result, it did not find sufficient evidence of abusive short selling in the Brazilian market. The note also states that the existing legal, regulatory and self-regulatory framework within which short selling transactions are conducted provides an adequate regulatory environment for short selling.</p> <p>Currently, the Brazilian Clearing and Custody Corporation ("CBLC"), the clearing house for the São Paulo Stock Exchange (the "Bovespa"), is the only institution authorized by CVM to offer securities lending services (National Monetary Council Resolution (CMN) No. 3.539 of February 28, 2008 and Instruction CVM No. 441 of November 10, 2006).</p> <p>The CBLC is responsible for the settlement of all trades, including short selling transactions, and for regulating its operating procedures. In its regulations relating to operating procedures, the CBLC sets out rules for covering short sales and for</p>	<p>The CVM took the position that it has not identified evidence of any market abuse related to short selling transactions. For this reason, CVM stated that there is no need for any additional prohibition or restriction in addition to currently applicable constraints, which are embedded in the operating rules of the CBLC.</p>	<p>All short sales are made visible to the CBLC at the time of settlement if the investor is compelled to obtain a loan of securities from the centralized facility or to purchase shares on the market to cover its sale.</p> <p>The CBLC tracks all securities lending transactions and gathers information regarding the identities of parties, the terms, amounts and market value of the securities on loan and the collateral offered to secure the loan. (Instruction CVM n. 441 of November 10, 2006). The CVM has full access to this information.</p> <p>Additionally, CBLC makes public aggregate information on a daily basis (CBLC Operating Procedures, Chapter VI - item 3.3) regarding the outstanding number of shares of each issuer that have been lent to investors, the value of the outstanding contracts and the percentage of the outstanding shares of an issuer represented by such shares, among other aggregate information regarding the lending facility.</p>	<p>None.</p>	<p>The CBLC limits the exposure of its centralized securities lending facility to individual investors, brokers and shares. The limits are set out by the CBLC under its self-regulatory authority. (Instruction CVM n. 283 of July 10, 1998 and CBLC Operating Procedures, Chapter VI - item 8). The limits are:</p> <ul style="list-style-type: none"> ▪ The facility cannot lend to a single investor more than 3% of the free float of a single issuer; ▪ The facility cannot lend to a single broker more than 6.5% of the free float of a single issuer; and ▪ The facility cannot lend in the aggregate more than 20% of the free float of a single issuer. <p>The CBLC is responsible for monitoring its exposure and may compel a party to close out a position whenever one of the above limits is exceeded.</p> <p>The CBLC requires an investor or its broker to post collateral as a condition to any securities lending transaction (CBLC Operating Procedures, Chapter VI - item 4.3.1).</p> <p>Investors are required to return the securities to the facility on the maturity date. If the securities are not returned at the specified time or the loan is not renewed, investors are</p>

BRAZIL¹

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>securities lending.</p> <p>Any short sale must be covered by the time required for the deposit of the securities in preparation for the settlement of the trade on T+3. If the seller does not deposit the relevant securities at the proper time, the CBLC will compel the investor to borrow the securities from a central lending facility operated by the CBLC. If the investor does not have sufficient collateral posted in its name, the broker for the trade will have the margin assessed from its net position in the clearing house. If no securities are available for lending in the centralized facility, the settlement of the trade may be postponed while a mandatory buy order is issued on behalf of the investor or the acting broker. In limited circumstances, other measures may be taken to unwind the transaction.</p> <p>Margin requirements for securities lending transactions, which are reviewed continually, have increased slightly in recent weeks with respect to certain shares, reflecting increased volatility in the market for such shares.</p>				<p>deemed to be in default and are assessed fines of 0.2% of the amount of the securities owed.</p> <p>Upon a default, investors must pay twice the fee originally owed for the securities loan until the securities are returned.</p> <p>If the securities are not returned on the maturity date, CBLC may also issue a buy order on behalf of the investor for the purchase of the undelivered securities, enforce the collateral on hand or require the cash settlement of the loan (CBLC Operating Procedures, Chapter VI - item 6).</p>

1. This section is up to date as at January 16, 2009.

CANADA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	EXEMPTIONS	OTHER PROVISIONS
<p>In Canada, emergency measures were taken with respect to short sales of certain financial sector shares. While these measures have now expired, various continuing restrictions exist and there are proposals for new measures, as briefly discussed in the column on the right under 'Other Provisions'.</p> <p>On September 19, 2008, the Ontario Securities Commission (the "OSC") issued a temporary order prohibiting the short selling of securities of certain financial sector issuers inter-listed in the U.S. "as a precautionary measure to prevent regulatory arbitrage" as a result of U.S. initiatives and to promote fair and orderly markets in Ontario. (Temporary Order, In the Matter of Certain Financial Sector Issuers, September 19, 2008).</p> <p>This order was restated on September 22, 2008 to reflect changes made in the United States and to remove an erroneously included issuer.</p> <p>On October, 3, 2008, the order was, in addition to being again amended slightly, extended to October 8, 2008, so as "to parallel the extensions of the SEC Short Selling Orders." (Reasons for the Decision to Extend the Temporary Cease Trade Order, In the Matter of Certain Financial Sector Issuers, October 8, 2008).</p>	<p>The order banned short sales in certain publicly traded securities of financial sector issuers.</p> <p>On September 22, 2008, it was clarified that this applied only to common equity securities.</p>	<p>The order provided a list of certain financial sector issuers that were both (a) listed on the Toronto Stock Exchange ("TSX") and (b) inter-listed in the United States (the "Financial Sector Issuers").</p> <p>Trades on other marketplaces in Canada and over-the-counter trades were also affected.</p> <p>The Financial Sector Issuers were as follows:</p> <p>Aberdeen Asia-Pacific Income Investment Company Ltd. (note that this issuer's name was removed on September 22, 2008 as it is not inter-listed), Bank of Montreal, The Bank of Nova Scotia, Canadian Imperial Bank of Commerce, Fairfax Financial Holdings Limited, Kingsway Financial Services Inc., Manulife Financial Corporation, Quest Capital Corp., Royal Bank of Canada, Sun Life Financial Inc., Thomas Weisel Partners Group Inc., The Toronto-Dominion Bank, and Merrill Lynch & Co., Canada Ltd. (which, while not inter-listed, had issued securities exchangeable into securities of Merrill Lynch & Co., Inc.).</p>	<p>The orders (as amended during the process) provided the following exemptions:</p> <p>(i) Short sales conducted in accordance with the Investment Industry Regulatory Organization of Canada's Universal Market Integrity Rules ("UMIR"), Rule 3.1, <i>Restrictions on Short Selling</i>, sections 2(a) (certain program trades), 2(b) (certain market maker trades), (d) (certain derivatives market maker trades) and (g) (certain ETF trades); provided that a dealer fulfilling market maker obligations may not effect a short sale in the common equity securities of the Financial Sector Issuers if the market maker ought reasonably to know that the client's or counterparty's transaction will result in the client or counterparty establishing or increasing an economic net short position (i.e. through actual positions, derivatives or otherwise) in the issued share capital of a Financial Sector Issuer covered by the temporary order;</p> <p>(ii) "Block facilitation" short sales conducted by a registered dealer as principal to facilitate with a client or counterparty (a) a securities transaction that has a current market value of \$200,000 or more in a single transaction, or in several transactions at approximately the same time, provided that the position is liquidated or hedged as soon as possible; or (b) a derivatives transaction</p>	<p>The emergency rules discussed in the columns on the left have now expired, but it is worth remembering that short sales in Canada remain subject to a number of restrictions, including:</p> <ul style="list-style-type: none"> ▪ The obligation to inform the selling dealer that a short sale is occurring; ▪ A prohibition, with certain exceptions, on selling on a "downtick" (and special requirements apply to entering short sale orders prior to market opening and in the case of dividends or distributions); ▪ A "soft" locate requirement (the regulator has indicated that one should have a "reasonable expectation" of settling any trade); and ▪ Restrictions on insiders, including directors, officers and over 10% voting shareholders, of <i>Canada Business Corporations Act</i> incorporated companies from effecting short sales. <p>Brokers selling shares that constitute short sales are required to mark the trade as a short sale (or, in certain cases, as a "short exempt" trade, if that marker is available), and the "bundling" of both short and long positions as a single order is restricted.</p>

CANADA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	EXEMPTIONS	OTHER PROVISIONS
<p>The order expired at 11:59 p.m. on October 8, 2008.</p>			<p>that has a notional value of \$200,000 or more in a single transaction, or in several transactions at approximately the same time, certain transactions valued at over \$200,000, provided that they are liquidated or hedged as soon as possible, and in each case provided further that a dealer may not effect a short sale in the common equity securities of the Financial Sector Issuers if the dealer ought reasonably to know that the client's or counterparty's transaction will result in the client or counterparty establishing or increasing an economic net short position (<i>i.e.</i> through actual positions, derivatives or otherwise) in the issued share capital of a Financial Sector Issuer covered by the temporary order;</p> <p>(iii) Short sales conducted in order to comply with UMIR Rule 5.2, <i>Best Price Obligation</i>;</p> <p>(iv) Short sales conducted by a person or company as a result of the automatic exercise or assignment of an equity option, or in connection with settlement of a futures contract, held prior to the effectiveness of the order due to expiration of the option or futures contract;</p> <p>(v) Short sales that are sales of a security subject to any restriction on sale imposed by applicable securities legislation or by an Exchange or QTRS as a condition of the listing or quoting of the security, where the security is beneficially owned by the seller</p>	<p>Note that a short sale is deemed (see section 3.1 of IIROC's Universal Market Integrity Rules) to include settling with borrowed stock, selling restricted securities (with special requirements applying to sales of U.S. restricted stock), or where the securities would expect to be received as a result of certain other transactions after the ordinary course settlement date of the sale.</p> <p>As well, legended or otherwise restricted securities may not constitute "good delivery" of the securities in question, and may also not be able to be used to settle a short sale borrowing. Finally, off-exchange sales are restricted in Canada, in order to enhance transparency, and brokers are considered "gatekeepers" and may as a result be required to report violations to regulators.</p> <p>On October 15, 2008, the Canadian SRO, IIROC, introduced further proposals, subject to comment in certain cases, to further regulate both short sales and failed trades. These will require reporting of failed trades after 10 trading days, limit the ability to cancel or vary executed trades, and allow IIROC to designate certain securities as ineligible for short sales entirely. They may also involve the imposition of hard "pre-borrow" requirements in the case of persons who have executed failed trades, the possible amendment to or removal of current short sale price restrictions and the potential removal of current requirements to file bi-</p>

CANADA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	EXEMPTIONS	OTHER PROVISIONS
			<p>and the sale is made under an exemption from the prospectus requirements in accordance with applicable securities legislation (e.g. sales of Canadian "restricted" securities, such as those legended or otherwise subject to resale restrictions, that are sold to an accredited investor acting as principal);</p> <p>(vi) Short sales conducted to adjust a hedged derivative position in order to maintain the risk exposure either hedged under (ii) above or that existed at the time the order became effective; and</p> <p>(vii) Short sales conducted by a writer of a call option that effects a short sale in a common equity security of a Financial Sector Issuer as a result of assignment following exercise by the holder of the call.</p>	<p>monthly aggregate short position reports.</p>

HONG KONG

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The Securities and Futures Commission ("SFC"), Hong Kong's securities and futures markets regulator, has published a consultation paper inviting public input on ways to increase short position transparency, including the scope, frequency and onus of reporting required. The consultation addresses a recommendation in the International Organization of Securities Commissions' (IOSCO) report dated March 23, 2009 that short selling "should be subject to a reporting regime that provides timely information to the market or to market authorities".</p> <p>The consultation paper contemplates two alternative reporting systems: increased transactional reporting by the use of close out indicators or the imposition of short position reporting requirements. Views were also sought on whether derivatives which create short exposures ought to be included in the reporting regime.</p> <p>The consultation period ended on September 30, 2009, but the SFC has yet to publish a consultation conclusion.</p>	<p>There has been no significant change in the position in Hong Kong recently in relation to short selling. Hong Kong did not introduce any temporary measures to restrict short selling.</p> <p>Naked short selling has always been unlawful in Hong Kong pursuant to section 170 of the Securities and Futures Ordinance (Cap 571) ("SFO").</p> <p>Only covered short selling for certain designated securities as prescribed by the Stock Exchange of Hong Kong ("SEHK") is permitted. Short selling is governed by the Eleventh Schedule of the SEHK Trading Rule ("the Eleventh Schedule").</p> <p>Short selling may be executed only on the SEHK at or above the best current asking price (the "tick rule"). There were proposals to scrap the tick rule, but that has now been withdrawn in light of the market situation.</p> <p>The rules also require a full audit trail to be kept for covered short sales (i.e. when clients place short selling orders, they must provide documentary confirmation to their brokers or agents that the sale is shorted and it is covered).</p>	<p>Any share of a company listed and traded on the SEHK.</p>	<p>Pursuant to section 172 of the SFO, all market participants, when conducting short selling which is permitted by the SEHK, are required to flag the order as a short selling order in the SEHK trading system.</p>	<p>The position of liquidity providers and market makers in securities is different from that of other market participants in relation to the application of the legal and regulatory requirements on short selling.</p> <p>The Commission's Guidance Note on Short Selling Reporting and Stock Lending Record Keeping Requirements published in March 2003 (the "Note") states that market makers / liquidity providers of warrants are permitted to sell short the underlying securities of the securities for which they provide market making / liquidity providing functions, to hedge their market making / liquidity providing positions (paragraph 2.5.4 of the Note).</p> <p>The SFC has made, under sections 170(3)(e) and 397 of the SFO, section 3 of the Securities and Futures (Short Selling and Securities and Borrowing and Lending (Miscellaneous) Rules) to disapply section 170(1) to all market makers and liquidity providers (i.e. to permit naked short selling by all market makers and liquidity providers) (paragraph 2.5.1 of the Note).</p> <p>The Eleventh Schedule does not</p>	<p>The Eleventh Schedule sets out regulations which apply generally to short sales. However, for Designated Index Arbitrage Short Selling, Stock Futures Hedging Short Selling, Structured Product Hedging Short Selling, Options Hedging Short Selling and Structured Product Liquidity Provider Short Selling, the Fifteenth Schedule ("the Fifteenth Schedule") and the Eighteenth Schedule ("the Eighteenth Schedule") of the SEHK Trading Rules ("the Rules") apply.</p> <p>The Fifteenth Schedule states that notwithstanding anything to the contrary contained in the Rules, Designated Index Arbitrage Short Selling, Stock Futures Hedging Short Selling, Structured Product Hedging Short Selling and Options Hedging Short Selling shall be conducted in accordance with the regulations contained in the Fifteenth Schedule.</p> <p>Similarly, the Eighteenth Schedule states that notwithstanding anything to the contrary contained in the Rules, Structured Product Liquidity Provider Short Selling by a Structured Product Liquidity Provider shall be conducted in accordance with the regulations contained in the Eighteenth Schedule.</p> <p>Under the SEHK Trading Rules, the</p>

HONG KONG

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
				apply to Securities Market Maker Short Selling, Structured Product Liquidity Providers Short Selling, Designated Index Arbitrage Short Selling, Stock Futures Hedging Short Selling, Structured Product Hedging Short Selling and Options Hedging Short Selling.	"tick rule" generally applies to short sales, meaning that a sale cannot be effected below the best current asking price. However, for Designated Index Arbitrage Short Selling, Stock Futures Hedging Short Selling, Structured Product Hedging Short Selling, Options Hedging Short Selling and Structured Product Liquidity Provider Short Selling, the Fifteenth Schedule and the Eighteenth Schedule provide that such sales can be effected at below the best current asking price.

INDIA

Short selling is not prohibited in India by the Securities and Exchange Board of India ("SEBI"), the financial regulator. In fact, in terms of SEBI Circular dated December 20, 2007 and RBI circular dated December 31, 2007, the category of persons who can lawfully engage in short selling has been widened to include institutional investors. Prior to this measure, only retail investors were allowed to short sell. It is now possible for institutional investors, such as Foreign Institutional Investors ("FIIs") to engage in short selling, and arrangements have been put in place for a securities lending and borrowing scheme to facilitate short sales. The new regime includes the following requirements:

- Naked short selling is not permitted in the Indian securities market. Hence, all investors selling securities must be able to honor their commitments to deliver the sold securities at the time of settlement.
- Furthermore, institutional investors are not permitted to engage in "day trading", *i.e.* squaring off their transactions intra-day. In other words, all transactions will be grossed for institutional investors at the custodians' level and the institutions are required to fulfill their obligations on a gross basis. The custodians, however, may continue to settle their deliveries on a net basis with the stock exchanges.
- When placing an order in a short selling transaction, institutional investors must disclose upfront the fact that the transaction is a short sale. Retail investors must also make such disclosures, although they are allowed to make disclosure at the end of the trading hours on the date of the transaction.
- All short sales must comply with the prescribed process provided for by the exchanges.

In addition to short selling on the Indian exchanges, FIIs have also been engaged in borrowing and lending of Indian stocks on an offshore basis. This process is undertaken by FIIs who hold idle stocks on behalf of their clients against Overseas Derivative Instruments (ODIs) issued to them. These underlying securities are lent by the FIIs to off-shore entities (not registered with SEBI) at an offshore level, thereby influencing valuations directly and creating selling pressure on the underlying stocks in the Indian market. Further, such overseas lending is not regulated either in the offshore market or by SEBI within India.

In light of the above, vide press releases issued on October 15 and 16, 2008, SEBI instructed FIIs/sub-accounts to disclose details of the quantity of the securities lent to entities outside India, *i.e.* jurisdictions where ODIs are issued by the FII, twice a week, on a consolidated basis. Upon a perusal of the data collected in this manner, the SEBI Chairman issued a press release on October 20, 2008 expressing his disapproval of stock lending activities on Indian securities undertaken by FIIs abroad. This disapproval was further reiterated by the Chairman in a meeting with the FII industry on October 22, 2008. In view of the above, the possibility of a formal ban on such overseas lending in the event FIIs fail to curb fresh borrowings overseas cannot be ruled out.

Simultaneously, in order to persuade FIIs to cease overseas lending and borrowing and use the securities lending and borrowing scheme in India instead, SEBI has taken a re-look at the short selling mechanism established in India. Consequently, SEBI Circular dated October 31, 2008 has introduced the following changes:

- Stocks can now be lent/borrowed for 30 days instead of seven days.
- Market timings for the stock lending and borrowing session have been increased from the present one hour to the normal trade timings of 9:55 am to 3:30 pm.

[In order to further incentivize domestic securities lending and borrowing, SEBI vide Circular dated January 6, 2010 has further amended the tenure from 30 days \(as stated above\) to a maximum period of 12 months. Therefore, the approved intermediary \(clearing corporation/clearing house\) will now have the flexibility to decide the tenure of the SLB contract up to 12 months instead of 30 days. This circular also provides market players with a facility for early recall /repayment of shares and SEBI has also set out detailed guidelines on the consequences of an early repayment by the borrower/recall by the lender.](#)

These changes are a step forward towards bringing the domestic short selling scenario at par with the international regime. SEBI is likely to introduce further amendments to the current securities lending/borrowing process in the future and press reports indicate that this may include (i) reduction in the SLB margins and (ii) anonymity in SLB transactions.

JAPAN

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
	<p>The following restrictions are in place with regard to trading of all listed stocks:</p> <p>(i) Traders are required to verify and mark whether or not the transactions in question are short selling; and</p> <p>(ii) Short selling is prohibited, in principle, at prices not higher than the latest market price announced by the stock exchange concerned.</p> <p>In addition to the above, the Financial Services Agency of Japan adopted regulations prohibiting naked short selling of stocks as of November 4, 2008. The Financial Services Agency extended the term of such regulations from time to time, such that the latest term is until April 30, 2010.</p>	<p>The enhanced disclosure obligation of the stock exchanges applies to all stocks.</p>	<p>On October 14, 2008, the Financial Services Agency requested stock exchanges to enhance their disclosure requirements regarding short sales. Specifically, whereas previously only the aggregate price of short selling regarding all stocks on a monthly basis was requested, now the aggregate price of short selling regarding all stocks and aggregate price of short selling by sector (33 sectors in total) on a daily basis is required.</p> <p>Since November 2008 the Financial Services Agency has required short sellers holding a position equal to or greater than a certain amount (to be, in principle, 0.25% of the total issue of the relevant stock) to disclose such position to the stock exchanges through their securities firm. The stock exchanges are required to publish such information.</p> <p>The term of this regulation has been extended from time to time, such that the latest term is until April 30, 2010.</p>	<p>None regarding the new disclosure obligation.</p>	

PEOPLE'S REPUBLIC OF CHINA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The relevant government authorities in China, particularly the China Securities Regulatory Commission (the "CSRC"), China's top securities regulator, have been drawing up plans to approve margin trading and short selling of shares since 2006, by promulgating rules and regulations on margin trading and short selling, including the <i>Trial Rules on Margin Trading and Short Selling Services for Securities Companies</i> (the "Trial Rules").</p> <p>On June 30, 2006, the CSRC promulgated the Trial Rules, effective as of August 1, 2006. According to the Trial Rules, qualified securities companies may submit applications to the CSRC for providing margin trading and short selling services and the CSRC is required to give its approval or disapproval within a specified time period.</p> <p>However, the introduction of these practices has been delayed for various reasons, and none of the securities companies in China have been approved to provide such brokerage services to date.</p> <p>Also on June 30, 2006, the CSRC issued <i>Guidance on Internal Control</i></p>					

PEOPLE'S REPUBLIC OF CHINA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p><i>of Securities Companies on Providing Margin Trading and Short Selling Services</i>, establishing a basic framework and guidance for securities companies on their internal risk control in relation to these services.</p> <p>On October 5, 2008, the CSRC announced the official launch of a trial program of margin trading and short selling services. On October 30, 2008, the CSRC promulgated the <i>Interim Regulations on the Examination and Approval of the Business Scope of Securities Companies</i> (effective from December 1, 2008), according to which, securities companies may apply to expand their business scope and add a new service type, wherein the CSRC is required to give approval or disapproval for such an application within 45 days. For innovative business types (such as margin trading and short selling) the CSRC may arrange expert assessment and select several securities companies as candidates to carry out the pilot implementation.</p> <p>The CSRC selected 11 top securities companies for test runs of the trading network including CITIC securities, Haitong Securities, Guotai Junan, Shenyin Wanguo and</p>					

PEOPLE'S REPUBLIC OF CHINA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>Everbright Securities. However, this trial program was delayed.</p> <p>On January 8, 2010, the CSRC announced, in a statement on its website, that it expects to launch the margin trading and short selling trial program again in mid-March of this year.</p> <p>On January 22, 2010 the CSRC issued further guidance on the trial program. According to this guidance, securities companies to be selected in the first team of candidates for the trial program shall, in addition to the qualifications set forth under the Trial Rules, have at least 5 billion yuan (\$732 million) in net assets and be rated at or over A-class in order to qualify. They must also have sufficient capital holdings and stocks of their own and have completed test runs of the trading network.</p> <p>Margin trading and short selling will be limited to about a dozen securities firms and only 70-80 stocks will be allowed to be traded in this way in the initial stage.</p>					

RUSSIA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The Federal Service for Financial Markets (the "FSFM") reintroduced a ban on short selling on September 30, 2008. This was introduced to stabilise the Russian stock markets.</p> <p>The ban was prolonged on March 25, 2009.</p> <p>However, on April 9, 2009, the FSFM issued Order No. 09-13/pz-n, which cancelled the ban on short selling with effect from June 14, 2009. The ban was cancelled to support the Russian stock market and to provide broader possibilities for the qualified investors to invest in the Russian stock market.</p> <p>However, there still exist some short selling prohibitions/restrictions which are covered in the "Prohibitions/restrictions" section.</p>	<p>It is prohibited for a broker to carry out a marginal and/or unsecured transaction of a sale of securities at a price which is lower than 3% than the closing price calculated by the organiser of the trade for securities for the previous working day. (A marginal transaction is a transaction of sale/purchase of securities with settlement of accounts for them being made by means of cash or securities lent by a broker to a client).</p> <p>A broker may not carry out a marginal and/or unsecured transaction of a sale of securities at a price lower than 3% of the price of the last transaction with a unit carried out at the tenders of the given organiser of trade at the main trading session of the previous working day if the requirement for the calculation by the organiser of trade of the current price (closing price) for such unit is not stipulated by:</p> <p>(i) the Regulations on the Activity in the Organisation of Trade on the Securities Market (approved by the Order of the FFMS No. 07-102/pz-n dated 9 October 2007); and</p> <p>(ii) by the Procedure for the Calculation of the Current Prices of</p>	<p>All stocks listed on a regulated Russian market are affected.</p>	<p>No additional disclosure requirements have been introduced.</p>	<p>A broker may carry out a marginal and unsecured transaction of a sale of securities without observing the restrictions applicable if the price of the respective transaction is equal to, or exceeds the lesser of the following values of a unit of securities:</p> <p>i) the most recent current price of a unit calculated by the organiser of trade on the securities market at which trade a marginal and/or unsecured transaction is carried out; or</p> <p>ii) the price of the last transaction with a unit which was taken for the calculation of such current price.</p>	

RUSSIA

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
	<p>Securities (established by the given organiser of trade).</p> <p>In its agreement with a customer, a broker may establish additional restrictions on carrying out of marginal and/or unsecured transactions of sale of securities.</p>				

SINGAPORE

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>Existing Measures</p> <p>Subsequent to the consultation papers issued by the Singapore Exchange Limited (the "SGX") on November 13, 2008, November 27, 2008 and March 10, 2009 to seek public feedback on a permanent penalty framework for failed deliveries, further measures to enhance the transparency of short selling activities and revisions to the share settlement processes to manage non-delivery of securities, respectively, the SGX has made certain changes.</p> <p>On November 20, 2009 the SGX introduced certain measures into the Central Depository (Pte) Limited ("CDP") Clearing Rules and formalised certain measures introduced in its Clearing Directive dated September 22, 2008, to deter failed deliveries of securities in the ready market and the buying-in market.</p> <p>The SGX has also introduced changes to its clearance and settlement system for securities traded on its exchange, to reduce the incidences of non-delivery of securities.</p> <p>No prohibitions or disclosure</p>	<p>The following penalties will be imposed on CDP's clearing members for failed deliveries:</p> <p>(i) All failed deliveries by the end of settlement date: five per cent. of the value of a failed trade (subject to a minimum of S\$1,000); and</p> <p>(ii) Failed procurement to cover open positions: A penalty of S\$5,000 per day for each sold contract, to be imposed if there is continued failure to procure (i.e. failure to procure two days after settlement day). For extended failed delivery of securities (i.e. failure to procure 4 days after settlement date) or for failed delivery of securities in the buying-in market, the clearing member may be referred to CDP's Disciplinary Committee and subject to a minimum penalty of S\$20,000 if found to be culpable. In addition to the penalty, the Disciplinary Committee may also choose to impose any one or more sanctions pursuant to its general powers under the CDP Clearing Rules, e.g. reprimand, etc.</p>	<p>All securities which are quoted on the SGX-ST.</p>	<p>There are currently no disclosure obligations for market participants.</p> <p>The SGX publishes the daily list of securities to be bought-in as well as details of the executed buying-in of securities at http://www.sgx.com/wps/portal/marketplace/mp-en/listed_companies_info/cdp_buying_in_info.</p>	<p>The CDP may waive the fine for failed deliveries by the end of settlement date for market makers of cross-listed exchange traded funds or such class of market participants as the SGX may determine in its discretion from time to time, if it is in the interests of the market.</p>	<p>A clearing member may lodge an appeal with the SGX to waive the penalty imposed within three business days from the date of receipt of the notification of penalty. The SGX will assess each individual appeal, taking into account relevant factors including the intent behind the trade, the profile of the trade/traders, as well as the impact of the trade on the integrity of the settlement process, and inform the clearing member of the results of its appeal in writing within 10 business days from the date of the notification.</p>

SINGAPORE

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>obligations specific to short selling are currently imposed by the SGX.</p> <p>The press releases dated September 22, 2008 announcing the issue of the Clearing Directive and September 26, 2008 clarifying the operation of the measures introduced are available at: http://www.sgx.com/wps/portal/corporate/cp-en/press_room/news_releases.</p> <p>The consultation papers and the SGX's responses to comments received are available at http://www.sgx.com/wps/portal/corporate/cp-en/regulation/public_consultation.</p> <p>Securities quoted on the securities exchange of the SGX, Singapore Exchange Securities Trading Limited (the "SGX-ST"), are traded under the book-entry settlement system of CDP. CDP acts as a depository and clearing organization by holding securities for its account holders and facilitating the clearance and settlement of securities transactions between its account holders through electronic book-entry changes in the securities accounts maintained by its account holders. When naked short selling results in a failed delivery of securities to CDP by noon on the settlement date, CDP will close-out</p>					

SINGAPORE

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>the short sale transaction by buying-in from the buying-in market. Where buying-in is unsuccessful, CDP will require the clearing member who failed to deliver securities to procure the sold securities from the ready market to cover open positions.</p>					
<p>Proposed Measures</p>					
<p>The SGX proposes to make compulsory the marking of all short-selling orders and to require the daily publication of statistics of aggregate short-selling activity for each individual security .</p> <p>A press release issued by the SGX on December 7, 2009, states that the SGX has provided technical specifications to its members to facilitate this effort (the press release is available here: http://www.sgx.com/wps/portal/corporate/cp-en/press_room/news_releases).</p> <p>The Monetary Authority of Singapore and the SGX will be instituting the necessary legislative and regulatory framework to effect these measures, and details on the proposed legislative and regulatory changes will be made available in due course. The requirement to mark short-selling orders will be implemented by the first half of 2010.</p>		<p>This would affect all securities listed on the SGX-ST, with the exception of extended settlement contracts.</p>	<p>As an additional measure to enhance the transparency of short-selling activities, all clients of brokers will be required to declare to their brokers whether a sell-order is a short sale at the point of placing the order, and the brokers will be required to convey such information to the SGX-ST on behalf of their customers at the point of order entry. The SGX-ST will consolidate and publish the aggregate short sold volume and value per individual counter, based on the short sale orders which are filled, before the start of the next trading day.</p>		

UNITED ARAB EMIRATES ¹

ACTION TAKEN	PROHIBITIONS / RESTRICTIONS	STOCKS AFFECTED	DISCLOSURE OBLIGATIONS	EXEMPTIONS	OTHER PROVISIONS
<p>The Securities and Commodities Authority of the United Arab Emirates (the "SCA") has not addressed short selling in its laws, rules and/or regulations. The SCA has, however, recently made public statements on numerous occasions and said that "short selling" practices were prohibited.</p> <p>Despite the fact "short selling" as such is not prohibited under the legislation, the prohibition can be derived from the SCA's general powers under the SCA Regulation No. 1 of 2000 as to Brokers ("Brokers Regulation") and/or the SCA Regulation No. 2 of 2001 on Trading, Clearing and Settlement ("Trading Regulation").</p>	<p>(i) Under Article 18(14) of the Brokers Regulation, brokers licensed in the UAE are obliged to ascertain the ownership of the securities before they execute an order.</p> <p>(ii) Under Article 5 of the Trading Regulation, brokers licensed in the UAE are not allowed to execute any orders on behalf of the investor that includes borrowing.</p>	All.			Should the SCA find a UAE-licensed broker in breach of the provisions of the Brokers and/or the trading Regulation, it is entitled to withdraw the brokerage license from the broker concerned.

¹

This information is up to date as at October 24, 2008.

This publication is intended only as a general discussion of the issues covered in it. It should not be regarded as legal advice. The description of regulatory action given is not intended to be a comprehensive summary or discussion of regulators' activities and may be subject to further regulatory changes. Furthermore, this publication does not deal with the rules governing specific products or investment vehicles (such as the special restrictions that apply to short selling by UCITS funds in Europe), nor the disclosure or notification obligations applicable generally to financial market participants.

We would be pleased to provide additional details or advice about specific situations if desired. If you wish to receive more information on the topics covered in this publication, you may contact your regular Shearman & Sterling contact person or any of the following:

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