

Supervision of Markets Division
Securities and Futures Commission
8th Floor, Chater House
8 Connaught Road Central
Hong Kong

Date 24 September 2009
Ref.
Subject Comments on the consultation on increasing short positions
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Handled by Manon de Voort

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Dear Sirs,

We refer to the "Consultation on increasing short position transparency" paper, issued on 31 July 2009. In response to your questions raised in the paper, we would like to inform you as follows.

- Q1. Yes close out indicators would enhance transparency as only collecting information on short selling transactions misses so much information that the actual information is of minimal use.
- Q2. The limitations in paragraph 13 are also present in short-sale transactions so not limited to close-out transactions. The issue in paragraph 14 will diminish over time. Perhaps only closeouts on short-sales that were initiated after a certain date could be marked as a close-out transaction.
- Q3. Including derivatives in the reporting requirements could overestimate the amount of economic short interest in an underlying. For example if someone is short a swap on a name, their counterparty who is long the swap may have hedged by selling short the underlying shares on the exchange which would have been reported.
- Q4. The first alternative is of limited use so investors shouldn't have to put forth the work for something so meaningless. If derivatives must be included the best alternative would be to allow preset exemptions (such as the index arbitrage short exemption) and allow additional exemptions on a case by case basis.
- Q5. Direct exposure would be most straight forward to implement. The problem with including convertibles would be the different opinions on how much short exposure is inherent in the convertible at any moment at of time. Different people have different opinions. We agree with your suggestion under paragraph 22.



Q6. The problem with reporting including derivatives on a delta adjusted basis is that different people may have different views of what delta is implicit against certain hedges.

Q7. If the reporting requirements come from derivatives it doesn't make sense to not include all securities. The reason the non-Designated securities are not being reported now isn't because they have an exemption but because the securities cannot be currently sold short on the market so there is nothing to report.

Q8. The threshold approach would be the most appropriate for short position reporting. If no threshold is established there will be too much work for all parties involved.

Q9. Under a threshold approach the level should be set at .25% and every .25% after that. If periodic reporting is adopted a threshold should also be adopted with a level of .25% of shares outstanding.

Q10. We prefer to have set regulations (not depending on market circumstances) on short positioning reporting.

Q11. NA

Q12. If thresholds are used the following business day, this is adequate. Requiring reporting for short positions with no threshold would entail a large amount of work for the SFC and investors on numerous small short positions so small they are irrelevant. There is no reporting requirement for people with long economic interest under a certain threshold so additional burdens shouldn't be placed on people who have short economic interest instead of long.

Q13. The requirement should be on the holders as they know their total position while prime brokers or custodians only know what is held with them.

Q14. Yes, agents should be permitted to report information on behalf of holders of short positions if the holders are being held accountable.

Q15. The reporting requirements should apply to individual funds.

Q16. The aggregation requirements should not be imposed on different entities as it would be too complex to aggregate across entities.

Q17. The reporting requirements need to be kept as simple as possible with no ambiguity as to how things should be classified. The extra requirements would cause additional work that increases the possibilities of errors somewhere in the chain so this should be weighed against the advantage of getting the additional information.

Q18. Any template or method that makes reporting easier is welcomed.

Q19. The information should not be disclosed unless a certain threshold is reached. In the publishing of name information there should be uniformity between what is required on the long side as the short side in terms of thresholds, frequency, timing, etc.

Q20. As per above, the frequency or delay in publishing any short economic interest information should be consistent with any long information requirements.

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Q21. If the appropriate thresholds are in place then exemptions shouldn't be required.

Q22. We agree that part XV of the SFO does not seem to be the best place to home the short position reporting requirements.

Should you have any questions, please feel free to contact Ms. Manon de Voort at 3472-1713 or Manon.devoort@hk.fortisgmk.com.

Yours faithfully,
For and on behalf of
Fortis Financial Products Limited

A handwritten signature in black ink, appearing to read "J. Hirani". The signature is fluid and cursive.

Jagdish Hirani
Regional Managing Director