Alternative Investment Management Association

Supervision of Markets
Securities and Futures Commission
35/F, Cheung Kong Center
2 Queen's Road Central
Hong Kong

Sent via email to: SPR-consult@sfc.hk

31st December 2015

Dear Sirs

AIMA Response to Consultation Paper on Short Position Reporting

The Alternative Investment Management Association ("AIMA")[1] appreciates the opportunity to provide comments to the Securities and Futures Commission ("SFC") in relation to its consultation paper entitled "Consultation to expand the scope of short position reporting and on the corresponding amendments to the Securities and Futures (Short Position Reporting) Rules" (the "Consultation Paper"). Terms not defined herein have the same meanings given to them in the Consultation Paper.

AIMA is broadly supportive of the policy proposals in the Consultation Paper. We appreciate the rationale for expanding the scope of the short position reporting regime to all other listed securities eligible for shorting on the SEHK, thereby further improving the transparency and monitoring of short selling activities.

Consistent with AIMA's policy principles, we would like to voice our support for the outcomes of improving market transparency, financial stability and investor protection overall as noted in paragraph 30 (page 12) of the Consultation Paper[2].

In this response, we have limited our comments to the following operational workflow and process-oriented issues; on which our members would welcome practical guidance or clarification (where appropriate) from the SFC:

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[1] *As the global hedge fund association, AIMA has over 1,600 corporate members (with over 10,000 individual contacts) worldwide, based in over 50 countries. Members include hedge fund managers, fund of hedge funds managers, prime brokers, legal and accounting firms, investors, fund administrators and independent fund directors. AIMA's manager members manage a combined US$1.5 trillion in global assets.*

[2] *The Consultation Paper notes that "The SFC recognises that while the imposition of short position reporting to all Designated Securities will increase market participants' compliance costs, the SFC's ability to monitor and maintain an orderly and properly functioning securities and futures market would be enhanced, thus bringing overall long-term benefits to the industry. In addition, the short position information that the SFC has been publishing pursuant to the SPR Rules has also improved the transparency of the market and can enable investors to make better informed investment decisions."*

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1. Expanding short position reporting to cover all Designated Securities

The SFC at present provides a downloadable CSV file which aids the automated processing of the 127 specified securities (as of 30 October 2015) that are currently subject to short position reporting. These reportable securities specified by the SFC are a subset of the Designated Securities under the expanded scope of reporting.

We kindly request that the SFC continues to provide a downloadable CSV file to cover the expanded set of securities that would be subject to short position reporting under the amended rules. This will allow for a more seamless transition to the expanded scope of reporting as well as facilitate the automation of the report generation process.

2. Short positions in relation to collective investment schemes (CISs)

We note that in relation to Designated Securities which are interests in CISs (such as exchange traded funds and real estate investment trusts) ("CIS Designated Securities"), it is proposed that for reporting short positions in relation to such securities, a person will have to report to the SFC if, as at the end of the last trading day of a week, he holds a net short position which has a value that equals to or exceeds HK$30 million.

For Designated Securities that are not CIS Designated Securities ("Non-CIS Designated Securities"), it is proposed that the threshold for reporting under the expanded scope will remain the same.

This means a reporting obligation for Non-CIS Designated Securities will arise if the short position equals or exceeds the lower of (i) HK$30 million and (ii) 0.02% of the market capitalisation of the listed issuer concerned, at the end of the last trading day of a week.

We appreciate the rationale for a different treatment of CIS Designated Securities versus Non-CIS Designated Securities. In order to facilitate the identification and screening of the CIS Designated Securities for report generation and to ensure the ongoing accuracy of reporting, we would like to request that downloadable CSV files be separately provided for CIS Designated Securities and Non-CIS Designated Securities.

Alternatively, if the list of Designated Securities can only be made available in a single CSV file, we would like to propose the use of additional data field(s) (or other suitable identifier(s)) that would greatly ease the differentiation of CIS Designated Securities from Non-CIS Designated Securities.

3. Designated Securities that are traded in foreign currency

Designated Securities can be traded in a foreign currency. It is proposed by the SFC that in such instances, where the trade price is in a foreign currency, for the purposes of determining the value of a net short position, the closing price of a Designated Security which is in a foreign currency must first be converted into HKD using the rate of exchange for that foreign currency (which is the buying rate for telegraphic transfers on the reporting day) as determined by the HKMA. In practice, the exchange rates so determined by HKMA applicable on a particular reporting day can be obtained from HKEx's website. This conversion arrangement is the current practice in relation to reportable stocks that are denominated in renminbi.

We welcome the clarity and certainty afforded by the new proposals in validating the current market practice. However, currently the HKEx's website publishes only USD and CNY exchange rates. To accommodate Designated Securities that may be traded in foreign currencies (other than USD and CNY) or in multiple currencies (i.e., the Designated Security is traded under a HKD counter and under another foreign currency counter), we kindly request that the HKMA-determined rates of exchange for all relevant currencies be made available in a downloadable CSV file.

4. Reporting in contingency situations

We note that the SFC has proposed that when the SFC determines that daily reporting in contingency situations is required, it should be empowered with the flexibility to increase the frequency of reporting for some (rather than all) Designated Securities.

We support the proposal in that it gives the SFC flexibility under the amended rules. That being said, we would be grateful for clarification regarding the following matters:

- In contingency situations where the SFC exercises its power to require daily reporting of short positions of some (but not all) Designated Securities, we would appreciate confirmation that the daily reports so required for the given securities will render the regular weekly report (which is submitted no later than the following Tuesday for Friday's end-of-day net short positions assuming Friday is the last trading day of the week) in the same securities unnecessary (notwithstanding that regular weekly reporting would continue for securities that are not subject to daily reporting).
- In the context of contingency reporting only, some market practitioners have asked whether there is flexibility to over-report and provide net short positions of all reportable Designated Securities under the expanded scope, such that reports submitted in this manner would be regarded as having complied with the rules. This is due to operational and technological complications that some managers may encounter in attempting to screen and generate reports against a select list of securities with only 24-hour advance notice, as well as the ongoing maintenance aspects of the same.
- We would also like to clarify the form in which the Designated Securities determined by the SFC for contingency reporting will be communicated. We kindly request that these securities also be provided in the form of a downloadable CSV file in order to facilitate the automation of the report generation process.

5. Reporting through SFC designated electronic system

We support the proposal to provide the SFC with sufficient flexibility to designate the use of more than one electronic system to report short positions. We understand that market participants will be able to choose between the existing reporting mechanism and any new reporting mechanism(s) that may be rolled out.

We have received suggestions from some members as to how the SFC could further improve the overall efficiency of the submission mechanism. This could include providing a secure FTP data transfer option so that file transmission can be automated rather than the present method of a manual upload via the SFC portal.

If a new reporting mechanism is required, we believe that a timeframe of at least six months should be allowed for market participants to adopt the new arrangement. This will provide adequate lead time for technical implementation, system enhancements and testing prior to the effective date.

We hope you find our submission helpful and would be pleased to answer any questions or discuss our comments in further detail.

Yours faithfully,