

Hong Kong Investment Funds Association

Comments from members of Hong Kong Investment Funds Association re the consultation paper on expanding the scope of short position reporting and on the corresponding amendments to the Securities and Futures (Short Position Reporting) Rules (December 2015)

- Reporting threshold:

Pursuant to the SPR Rules, a person who has a net short position in any of the specified shares that equals to or exceeds 0.02% of the market capitalization of the listed issuer concerned or HK\$30 million, whichever is lower, at the end of the last trading day of a week, has the obligation to report to the SFC.

However, members opine that the level of short position which triggers the reporting obligation is too low. In case of large-cap stocks, investors are subject to the reporting obligations even if their short position is only a small percentage of the market cap of the stock given the threshold of HK\$30 million is in place. For stocks with a smaller market cap, a very small short position in terms of market value already can lead to the reporting obligation given the 0.02% threshold.

It has been suggested that the short position reporting threshold be set at 0.2%-0.5%, in line with other major financial centres.

- Reporting in contingency situations

Members believe that the proposal presents operational challenges: Multi-national corporations operate in different time zones. The timing difference between Asian and non-Asian time zones (such as U.S./U.K. time zone) will result in the inability of managers to obtain daily transaction data timely to meet the proposed daily reporting requirement. Thus, (1) we would exhort SFC to consider giving exemption to non-Asian based entities from the reporting requirement (or if exemption is not possible, give a sufficient implementation timeline to work out the operational implications). (2) In terms of the deadline for reporting, to consider at least give a sufficient window, say three to four business days from the date of the reportable position.

- Our understanding is that the requirement would be on a per fund (i.e. each beneficial owner) basis, not grouped under the same asset manager. Please clarify if it is otherwise. If it is former (i.e. on a per fund basis), it would be more manageable. But if it is the latter (i.e. per manager), it would be very difficult to implement, especially for global firms which may have dozens of legal entities around the globe with different teams responsible for the reporting requirements for these entities (either geographically or by investment strategies) Members also request confirmation that market participants will not have to continue reporting short positions which still exist in any securities which have since been deleted from the list of designated securities.

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- Other comments

- Market transparency:

Members opine that there is already sufficient market transparency: while the actual identity of short-sellers is not tagged with the short-sales executed in the market, the trades themselves are tagged on a real-time basis, and so there should already be enough data for transparency.

- General:

Some members have also asked whether the SFC should take this opportunity to conduct a more comprehensive review of the system, i.e. to review whether there is still a need to maintain the uptick rule as well as the list of designated securities, both of which are not conducive to price discovery and efficient execution.

(End)