



Tuesday 28 October 2008

MR 08-211

REQUIREMENTS FOR DISCLOSURE AND REPORTING OF SHORT SALES FROM 19 NOVEMBER 2008

On 21 October 2008, the Australian Securities and Investments Commission (ASIC) announced that it expected to lift the ban on covered short selling of non-financial stocks from 19 November 2008.

ASIC and the Australian Securities Exchange (ASX) have been working with industry participants to develop arrangements for disclosure and reporting of short sales when the ban is lifted. These arrangements are outlined below and complement the disclosure regime for securities lending proposed by the Reserve Bank in its release of 24 October 2008.

The disclosure and reporting arrangements provide additional transparency on the amount of short selling in Australian securities to participants in financial markets, the market regulator (ASIC) and the market operator (ASX). ASIC and ASX will use this data together with information about trading and market positions in traded securities to assist in detecting market manipulation and other non-compliance with existing obligations.

The new arrangements will require:

- Trading participants to ensure they have a system in place to record whether a sell order from a client is a sale of securities they already own (Long Sale), a covered short sale (Short Sale) or a covered short sale which falls under one of the exemptions to the ban (Exempt Short). A sale would only be reported as Exempt Short if it were a qualifying short sale in a financial security for which a ban on covered short selling is in place;
- Clients to continue to inform a financial services licensee (normally their broker) when a sale order is for a short sale; and
- Trading participants to continue to report to the market operator (i.e. ASX) all short sales.

Obligations to report short sales that are otherwise allowable under sub-section 1020B(4) of the Corporations Act 2001 are unchanged.

Reporting - how will this work in practice?

ASIC and ASX have developed a reporting arrangement that will provide daily reports of short selling. The following parties will be subject to reporting obligations under the reporting arrangements:

- Trading participants will need to inform ASX that they have advised their clients to disclose all short sales;

- Trading participants will be required to determine and record whether a sell order is for a Long Sale, a Short Sale or an Exempt Short (see below);
- Trading participants will report to ASX each business day all short sales, including Exempt Short sales in securities in financials for which the short selling ban remains in place and naked short sales that arise from the exercise of exchange-traded options. Initially this will be a daily report submitted by 9:00am capturing all short sales executed up to 7:00pm on the previous trading day; and
- ASX will have in place a system to capture covered short sales reports.

The method and timing of report lodgement will remain the same as it is now for the reporting of covered short sales that are exempt from the ban. However, the content of the new report will differ. It will no longer include details of unsettled short positions opened on a day prior to the reporting day (i.e. a rolling three day report of unsettled positions). Instead, the daily report will simply include details of all short sales executed in the 24 hours up until 7:00pm on the relevant day.

Order management systems

Some existing order management systems are able to record whether a sale is a Short Sale but do not have the capability to confirm that a sale is a Long Sale. ASIC and ASX are working with industry groups and vendors of order management systems to develop standards that will ensure that orders are recorded as being one of a Long Sale, Short Sale or Exempt Short. Initially this is likely to entail agreement between clients and trading participants that specific message fields and protocols are adopted to ensure this information is appropriately recorded. ASIC, ASX, industry groups and key vendors are working towards implementing common standards that can be adopted for major systems and messaging protocols.

Market disclosure

Reporting to ASX will be coupled with disclosure to the market. ASX will produce and disseminate a report to the market that will be released after 9:00am each trading day. The report will show, by security, the total volume of short sales executed on the previous trading day. The report will include Exempt Short sales in financial sector securities.

ASX has initiated system changes to automate the receipt of short sale information. When these changes are complete, trading participants will be able to dispense with the end of day reports to ASX. Instead, ASX will aggregate data received from the real-time tagging of orders to produce the report released after 9:00am on the next trading day.

Example short sales report:

ASX Code	Company Name	Product/ Class	Reported Short	% Short
AAH	ARANA THERAPEUTICS LIMITED	FPO	262,084	.01
AAX	AUSENCO LIMITED	FPO	4,258	.00
ABB	ABB GRAIN LIMITED	FPO B	316,595	.02
ABC	ADELAIDE BRIGHTON LIMITED	FPO	206,507	.00
ABP	ABACUS PROPERTY GROUP	STAPLED	50,978	.00
ABS	A.B.C. LEARNING CENTRES LIMITED	FPO	1,522,584	.03

Contact for media enquiries:

Angela Friend

ASIC Media Unit

Telephone: 03 9280 3338

Mobile: 0412 058 800