

INVESTMENT FUNDS ALERT

UK FINANCIAL STOCK SHORT SELLING REGIME—FSA RELEASES POLICY STATEMENT

SUMMARY

Following the United Kingdom Financial Services Authority's (FSA) Short Selling (No 3) Instrument 2008 (please see this September 2008 [Akin Gump alert](#) on the short selling regime), the FSA on January 14, 2009 published Policy Statement 09/1 containing the Short Selling (No 5) Instrument 2009 (the "Instrument"), which ends the prohibition on the short selling of stocks in UK financial sector companies but extends the disclosure requirements until June 30, 2009.

PREVIOUS POSITION

The previous provisions contained a prohibition on short sales in both covered and uncovered/naked short positions. Disclosure of a net short position in the stock of a UK financial sector company existing before the implementation of the prohibition was required if that position was 0.25 percent or more of a relevant financial service company's issued share capital.

KEY POINTS FROM THE POLICY STATEMENT

Lifting of prohibition

Short selling of stocks in UK financial sector companies is now permitted.

Disclosure

Generally, the current disclosure obligations are similar to the previous (please see [Akin Gump alert](#), "UK Financial Stock Short Selling Regime – FSA Releases Revised," dated September 24, 2008).

There continues to be a requirement to disclose a net short position in a UK financial sector company reaching, exceeding or falling below 0.25 percent of the issued share capital, but, with the lifting of the prohibition, the Instrument now requires further disclosure(s) if a short position reaches, exceeds or falls below each further 0.1 percent of the issued share capital thereafter (e.g., 0.35 percent, 0.45 percent, etc). A person must make the disclosure by 3:30 p.m. the day after the obligation to disclosure arises.

Rights issues

In June 2008 (please see [Akin Gump alert](#), “FSA Announces New Short Selling Disclosure Regime for Rights Issues,” dated June 17, 2008), the FSA introduced a requirement to disclose net short positions of 0.25 percent or more of the issued share capital of any issuer in a rights issue period but did not require disclosure of an increase in such a position. The effect of the Instrument is that any increase in a short position relating to a UK financial sector company in a rights issue period will now need to be notified.

Further information

As with previous short selling instruments, the FSA has issued a set of answers to frequently asked questions (FAQs). A link to the FAQs is provided below, together with a link to the list of UK financial sector companies to which the Instrument relates.

The current regime is expected to continue until June 30, 2009, and a further consultation paper regarding the future of the UK short selling regime is expected from the FSA in a matter of weeks.

LINKS

The Policy Statement 09/1 can be found here:

http://www.fsa.gov.uk/pages/Library/Policy/Policy/2009/09_01.shtml

The FAQs can be found here:

http://www.fsa.gov.uk/pubs/other/Short_selling_FAQs_V1.pdf

The list of UK financial sector companies can be found here:

http://www.fsa.gov.uk/pubs/other/Shortselling_list.pdf

CONTACT INFORMATION

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