



Client Alert

FSA Prohibits Short Positions in Financial Stocks

September 2008

The UK Financial Services Authority (FSA) announced today (Thursday September 18) the introduction of new provisions in its Code of Market Conduct which prohibit the active creation or increase of net short positions in publicly quoted financial companies from midnight tonight.

With effect from Tuesday September 23, the FSA will require daily disclosure of all net short positions in excess of 0.25 per cent of the ordinary share capital of the relevant companies held at market close on the previous working day. Disclosure of such positions held at close on Friday September 19 will be required on Tuesday September 23. The FSA announcement is not explicit on this point, but it is our understanding that disclosure of positions must be effected by means of a Regulatory Information Service, as this is the required disclosure method under the FSA's current short selling disclosure requirements which apply to short positions in stocks undertaking rights issues.

Failure to give the required disclosure will constitute market abuse under the FSA's Code of Market Conduct, which applies to all market participants, not just to FSA regulated firms.

The FSA has not yet published the detailed changes to the Code of Market Conduct, nor has it published a list of the companies whose securities are covered by the new rules. It has said that it will publish both before the market opens tomorrow (Friday September 19).

The FSA announcement states that it "stands ready to extend this approach to other sectors if it judges it to be necessary."

These provisions will remain in force until January 16, 2009, although they will be reviewed after 30 days. The FSA has promised that a comprehensive review of the its rules on short selling will be published in January 2009.

The FSA announcement is available at
www.fsa.gov.uk/pages/Library/Communication/PR/2008/102.shtml

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