

## SHORT SELLING INSTRUMENT 2008

### Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 119 (The code);
  - (2) section 149 (Evidential provisions);
  - (3) section 156 (General supplementary powers); and
  - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

### Commencement

- C. This instrument comes into force on 20 June 2008 and applies in relation to any position held on or after that date.

### Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Market Conduct sourcebook (MAR) is amended in accordance with Annex B to this instrument.

### Citation

- F. This instrument may be cited as the Short Selling Instrument 2008.

By order of the Board  
12 June 2008

## Annex A

### Amendment to the Glossary of definitions

In this Annex, underlining indicates new text.

*disclosable short position* a short position which represents an economic interest of one quarter of one per cent of the issued capital of a *company*.

In calculating whether a holder has a *disclosable short position*, the holder should take into account any form of economic interest it has in the shares of the *issuer*, excluding any interest which he holds as a *market maker* in that capacity.

....

*rights issue period* the period that commences on the date a *company* announces a rights issue and which ends on the date that the *shares* issued under the rights issue are admitted to trading on a *prescribed market*.

## Annex B

### Amendments to the Market Conduct sourcebook (MAR)

In this Annex, underlining indicates new text.

Descriptions of behaviour that amount to market abuse (misleading behaviour) under section 118(8)(a) or market abuse (distortion) under section 118(8)(b)

1.9.2 E ...

1.9.2A E Failure by a person to give adequate disclosure that he has reached or exceeded a *disclosable short position* where:

(1) that position relates, directly or indirectly, to *securities* which are the subject of a *rights issue*; and

(2) the *disclosable short position* is reached or exceeded during a *rights issue period*;

is *behaviour* which, in the opinion of the *FSA*, is *market abuse (misleading behaviour)*.

1.9.2B R For the purposes of MAR 1.9.2AE, “adequate disclosure” means disclosure made on a *RIS* by no later than 3.30pm on the *business day* following the date on which the *disclosable short position* is reached or exceeded. The disclosure must include the name of the person who has the *disclosable short position*, the *disclosable short position* and the name of the *issuer* of the *qualifying instruments*.