

SHORT SELLING (NO 6) INSTRUMENT 2009

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 121 (Codes: procedure);
 - (3) section 149 (Evidential provisions);
 - (4) section 156 (General supplementary powers); and
 - (5) 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 30 June 2009 and applies in relation to any position held on or after that date.

Amendments to the Handbook

- D. The Market Conduct sourcebook (MAR) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Short Selling (No 6) Instrument 2009.

By order of the Board
25 June 2009

Annex

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.9 Market abuse (misleading behaviour) & market abuse (distortion)

...

Short selling in relation to financial sector companies

1.9.2C E ...

- 1.9.2D E (1) Failure by a person who has a *disclosable short position* in a *UK financial sector company* to provide adequate ongoing disclosure of their position is *behaviour* which, in the opinion of the *FSA*, is *market abuse (misleading behaviour)*.
- (2) In (1), “adequate ongoing disclosure” means disclosure made on a *RIS* by no later than 3.30pm on the *business day* following the day on which the position reaches, exceeds or falls below a *disclosable short position* of 0.25%, 0.35%, 0.45% and 0.55% of the issued share capital of the company and each 0.1% threshold thereafter.
- (a) [deleted]
- (b) [deleted]
- (2A) The disclosure referred to in (1) must include the name of the person who has the position, the amount of the *disclosable short position* and the name of the company in relation to which it has that position.
- (3) For the avoidance of doubt, changes in a *disclosable short position* between the thresholds referred to in (2) do not need to be disclosed under this section. For example, an increase from 0.25% to 0.31% of the issued share capital of the company does not need to be disclosed.
- (4) For the avoidance of doubt, (1) applies during a *rights issue period*.
- (5) ~~This provision ceases to have effect on 30 June 2009.~~ [deleted]