

## SIDLEY UPDATE

### Monetary Authority of Singapore Consults on Regulations for Short Selling

On December 14, 2016, the Monetary Authority of Singapore (MAS) issued a Consultation Paper on Regulations for Short Selling (Consultation Paper).

The Consultation Paper seeks to introduce requirements to enhance transparency on the level of short selling in securities listed on Singapore's approved exchanges<sup>1</sup>. Market participants will be required to specifically mark short sell orders to the relevant exchange<sup>2</sup> and report short positions above specific thresholds to MAS. The approved exchanges will publish aggregate information on short sell orders and short positions.

These new requirements form part of the Securities and Futures (Amendment) Bill 2016, and further details are set out in the draft Securities and Futures (Short Selling) Regulations 2017 (Regulations) and the draft Guidelines on the Regulation of Short Selling (Guidelines) attached as Annex B and Annex C of the Consultation Paper, respectively.

This briefing summarizes the proposals relating to these new requirements on short selling.

#### Key proposals

A summary of the key proposals in the Consultation Paper is set out below.

	<b>Proposal</b>	<b>Summary</b>
1.	<b>Scope of disclosure and reporting requirements</b>	<ul style="list-style-type: none"><li>• Requirements to mark short sell orders and report short positions will apply only to specified capital markets products, i.e.:<ul style="list-style-type: none"><li>○ shares of a corporation whose primary listing is on an approved exchange</li><li>○ shares of a corporation whose secondary listing is on an</li></ul></li></ul>

<sup>1</sup> Currently, Singapore's approved exchanges refer to Singapore Exchange Securities Trading Limited, Singapore Exchange Derivatives Trading Limited and ICE Futures Singapore Pte. Ltd.

<sup>2</sup> This gives statutory backing to Singapore Exchange Limited's (SGX) current trading rules on short order marking, where short sell orders are required to be marked before submitting such orders to SGX.

	<b>Proposal</b>	<b>Summary</b>
		<p>approved exchange where –</p> <ul style="list-style-type: none"> <li>▪ the shares of the corporation a constituent of an index specified in the Second Schedule<sup>3</sup> of the Regulations;</li> <li>or</li> <li>▪ the corporation is specified in the Third Schedule<sup>4</sup> of the Regulations.</li> </ul>
2.	<b>Disclosure requirements on short sell orders (similar to current market practice)</b>	<ul style="list-style-type: none"> <li>• When a market participant (A) places a short sell order through his broker, he will be required to disclose to the broker that the order is a short sell order before or at the time of the order.</li> <li>• The broker should enter the order only after A has disclosed to him whether the order is a short sell order or a normal sell order, as the broker will in turn be required to disclose the same to the approved exchange before or at the time of the order.</li> <li>• Where market participants own some but not the full quantity of securities to be sold, such partial short orders will be required to be split into two separate orders, with the short sell order marked accordingly.</li> <li>• The approved exchanges will be required to publish, before the start of each trading day, the aggregate volume of short sell orders matched and executed on the preceding trading day and in respect of each specified capital markets product.</li> <li>• Both designated and registered market makers will be exempted from the requirement to mark short sell orders in respect of their market making activities.</li> </ul>
3.	<b>Reporting requirements on short positions (new requirement)</b>	<ul style="list-style-type: none"> <li>• A reportable short position will be defined as a short position that is equivalent to or more than the lower of the following thresholds (Short Reporting Thresholds): <ul style="list-style-type: none"> <li>○ 0.05 percent of the outstanding shares in the relevant class of shares of the corporation</li> <li>○ S\$1,000,000 in aggregate value of the outstanding shares in the relevant class of shares of the corporation</li> </ul> </li> <li>• The short position, regardless of whether the position has been settled, should be calculated on the last day of each calendar week (typically a Friday) that the approved exchange is open for trading in the relevant</li> </ul>

<sup>3</sup> At this point, the Second Schedule will specify only the FTSE Straits Times Index.

<sup>4</sup> At this point, the Third Schedule will not specify a corporation.

	<b>Proposal</b>	<b>Summary</b>
		<p>class of shares of the corporation (position day).</p> <ul style="list-style-type: none"> <li>• Derivatives will be excluded for the purposes of calculating a short position.</li> <li>• The reporting obligations will be imposed only on the immediate legal owners of the shares and not the beneficial owners or controllers of the shares.</li> <li>• Designated market makers will be exempted from reporting short positions acquired in the course of their market making activities. MAS seeks comments on whether registered market makers should be required to report short positions.</li> <li>• A short position holder will be permitted to get an agent to report the short positions on his behalf.</li> <li>• A person who has a reportable short position will be required to report his short position to MAS two business days after the position day.</li> <li>• The short position report will be required to be lodged with MAS via the Short Position Reporting System (SPRS) on MAS' website.</li> </ul>
4.	<p><b>Flexibility for institutional participants with multiple trading desks in reporting aggregate orders and positions</b></p>	<ul style="list-style-type: none"> <li>• Institutional participants with multiple trading desks will be permitted to choose whether to aggregate their orders and positions on a legal entity basis or trading desk basis for short position reporting purposes.</li> <li>• Where an institutional participant chooses not to aggregate orders and positions on a legal entity basis, orders and positions should be aggregated at the highest possible level where trading decisions share the same influence (e.g., same portfolio manager). The considerations determining the level of aggregation must be documented, and the orders and positions must not be double counted for reports.</li> <li>• Reporting must be made on a consistent basis. For example, an institutional participant should not be aggregating on a trading desk basis in one reporting period and on a legal entity basis in the next reporting period when trading decisions are consistently made at a trading desk level.</li> <li>• Where an institutional participant chooses to aggregate orders and positions on a trading desk basis, trading desks will be required to report <i>all</i> short positions, even if the short positions at the individual trading desk level do not exceed the Short Reporting Thresholds.</li> <li>• To report short positions on a trading desk basis, institutional participants will be required to register and set up separate reporting</li> </ul>

	<b>Proposal</b>	<b>Summary</b>
		<p>identities in SPRS for each trading desk. Changes in how short positions are aggregated should be accompanied by new reporting identities for each new level of aggregation.</p>
5.	<p><b>Flexibility for investors with multiple fund managers in reporting aggregate orders and positions</b></p>	<ul style="list-style-type: none"> <li>• Investors with funds managed by multiple fund managers with separate discretionary mandates will be permitted to choose whether to aggregate their orders and positions at the investor’s level or fund manager’s level for short position reporting purposes.</li> <li>• Orders and positions must not be double counted for reports.</li> <li>• Reporting must be made on a consistent basis. For example, an investor should not be aggregating at his level in one reporting period and at the fund manager’s level in the next reporting period.</li> <li>• Where an investor chooses to aggregate orders and positions at the fund manager’s level, fund managers will be required to report <i>all</i> short positions, even if the short positions at the fund manager’s level do not exceed the Short Reporting Thresholds.</li> </ul>
6.	<p><b>Implementation timeline</b></p>	<ul style="list-style-type: none"> <li>• The finalized Regulations will be published four months before they take effect.</li> <li>• SPRS will be made available on MAS’ website in Q1 2017 for voluntary reporting and to allow market participants to begin registering accounts and familiarize themselves with the system before the reporting requirements come into force.</li> </ul>

## Invitation for Comments

Please refer to the Consultation Paper for the complete set of proposals as well as the list of consultation questions, which can be found [here](#). The deadline for comments and feedback to be submitted to the MAS is **January 27, 2017**. We are collating comments from clients and industry participants for submission to the MAS. If you have any comments on the proposals that you would like us to submit on your behalf, please contact Han Ming Ho (+65 6230 3966, [hanming.ho@sidley.com](mailto:hanming.ho@sidley.com)) or Josephine Law (+65 6230 3916, [jlaw@sidley.com](mailto:jlaw@sidley.com)).

If you have any questions regarding this update, please contact the Sidley lawyer with whom you usually work or

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