

Financial Services Authority



## 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.

<u>disclosable short position</u>	<u>a short position which represents an economic interest of one quarter of one per cent of the issued capital of a company.</u>  <u>In calculating whether a holder has a <i>disclosable short position</i>, the holder should take into account any form of economic interest it has in the shares of the <i>issuer</i>, excluding any interest which he holds as a <i>market maker</i> in that capacity.</u>
....	
<u>rights issue period</u>	<u>the period that commences on the date a <i>company</i> announces a rights issue and which ends on the date that the <i>shares</i> issued under the rights issue are admitted to trading on a <i>prescribed market</i>.</u>

**Annex B**

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

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

		Descriptions of behaviour that amount to <i>market abuse (misleading behaviour)</i> under section 118(8)(a) or <i>market abuse (distortion)</i> 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 <i>disclosable short position</i> where: (i) that position relates, directly or indirectly, to <i>securities</i> which are the subject of a rights issue; and (ii) the <i>disclosable short position</i> is reached or exceeded during a <i>rights issue period</i> ; is <i>behaviour</i> that, in the opinion of the <i>FSA</i> , is <i>market abuse (misleading behaviour)</i> .
<u>1.9.2BA</u>	<u>R</u>	<u>For the purposes of MAR1.9.2E, “adequate disclosure” means disclosure made on a <i>RIS</i> by no later than 3.30pm on the <i>business day</i> following the date on which the <i>disclosable short position</i> is reached or exceeded. The disclosure must include the of the name of the person who has the <i>disclosable short position</i>, the <i>disclosable short position</i> and the name of the <i>issuer</i> of the <i>qualifying instruments</i>.</u>