



Mr. Martin Wheatley
Chairman
IOSCO Short Selling Task Force

24 December 2008

Dear Mr. Wheatley,

re: Restrictions on Short Sales

The Securities Analysts Association of Japan (SAAJ*) is pleased to comment on “IOSCO Technical Committee Members’ Initiatives Relating to Restrictions on Short Sales” as below:

1. General Remarks

The short selling of stocks is an indispensable mechanism which provides liquidity to markets and enables arbitrage trading, thus contributing to efficient price discovery. Hence, SAAJ is, in principle, against any measures that restrict short sales. However, the markets are now reeling from the impact of a ‘once in a hundred years tsunami’ and some securities are trading at prices far below theoretical level. Under such circumstances, we understand the desire of market regulators to introduce measures which will possibly prevent further aberrations in securities pricing. In introducing such measures, however, the liquidity enhancing mechanism of short sales should not be impaired.

2. Comments on Proposed Measures

(1) Naked short selling

If naked short selling is permitted without restriction, the short position could amount to more than the number of shares issued, offering a theoretical rationale for such restriction. However, in practice, justification should be evaluated as to whether naked short selling is actually causing frequent delivery failures or not in the relevant market. The Japanese market has not experienced such a problem and it is easy to borrow most stocks after issuing short sale orders. And, in practice, it is difficult for securities houses and stock exchanges to know if a particular short order is naked or not. Speed is of the essence in securities transactions, and restrictions on naked sales would most likely be counter-productive. Thus, restrictions on naked short selling would do more harm than

good. Accordingly, naked sales restrictions should only be applied to markets in which delivery failure is a chronic issue.

(2) Reporting and disclosure of short sales

Information on buyers and sellers will contribute to calming market psychology. When the name of the ghost is disclosed, by definition it is no longer a ghost. In this regard, reporting and disclosure of short positions can be a measure to restrain side effects stemming from short sales while preserving the liquidity provision function. However, in order that measures would not impose too much of an operational burden on market participants and see equitable treatment between long and short position holders maintained, a couple of things should be carefully considered before actual introduction. The first is what to report and when. Reporting should be limited to accumulated positions. Reporting of short sales at point of sale is not desirable as it would hamper speedy transactions. As the size of short positions might change significantly over time, reporting could be more frequent than that for long positions as long as it would not hinder trading activity. The second thing is not to set the trigger level too low. For example, 5% is the trigger for long positions in Japan. Setting the trigger for short positions significantly lower than that for long positions is not desirable from an equitable viewpoint.

(3) Setting a time limit

We understand that most of the IOSCO Technical Committee's initiatives were proposed as emergency measures to counter the current credit crisis. When measures, such as restrictions on naked sales are actually introduced, they should be made effective for only a specified period.

If you have any questions or need further clarification, please do not hesitate to contact us.

Sincerely yours,

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Kiyoto Hagiwara

President and CEO

*SAAJ is a not-for-profit organization established in 1962. Today, its main activities comprise education and examination programs focusing on financial and investment analysis. Our CMA (Chartered Member of the Association) program is composed of distance education and four examinations divided into first and second levels with a total exam time of 13 hours. Passing the second level exam and three years' working experience in the financial industry qualifies one to become a CMA. Typically, a new CMA is in his or her late 20s or early 30s with several years working experience following a university education. Each year, more than 10,000 candidates take the exams, and we now have about 22,000 CMAs, making us the second largest analysts association after the CFA Institute in the United States. Most of our members play important roles in the financial industry, but some use the CMA designation to enhance their responsibilities as public accountants while others find opportunities in non-financial areas, particularly as accounting and IR professionals. For the continuing education of our diversified membership, we hold about 80 seminars/conferences and more than 900 company meetings annually. SAAJ is also pro-active in enhancing corporate disclosure and improving accounting standards. Each year, the Corporate Disclosure Committee surveys members and gives awards to companies exhibiting excellence in disclosure. The Corporate Accounting Committee studies accounting issues and submits comment letters to standard setters. SAAJ's activities are widely supported by the business community and major financial institutions are important corporate members.