

PRACTICE NOTE 8A.3.3, 8A.4.1, 8A.4.2, 8A.6.2

OBLIGATIONS OF TRADING MEMBERS UNDER THE REQUIREMENT TO MARK SELL ORDERS

Issue Date	Cross Reference	Enquiries
	Rule 8A.1 – 8A.6	

1. INTRODUCTION

- 1.1 Rule 8A.3.3 requires a Trading Member to implement the necessary operational and technical systems and procedures to facilitate compliance with the obligations to:
- (a) mark all sell orders either as a Short Sell Order, or a normal sell order; and
 - (b) reject a sell order from transmission in the Trading System if a customer has not indicated whether the sell order is a Short Sell Order or a normal sell order.
- 1.2 This Practice Note clarifies a Trading Member's obligations pursuant to Rule 8A.3.3.
- 1.3 SGX-ST will publish the short sale information collected in this manner before the start of each Market Day. Greater transparency to the market of short selling activities can be beneficial, by providing more timely information to better look after investors' interests, and to reduce the risk of manipulative or other unfair trading practices.

2. MARKING OF SELL ORDERS

- 2.1 The marking of sell orders should be viewed as part of information required for order entry. This facilitates the Trading Member's compliance with Rule 8A.3.3.
- 2.2 Trading Members who are concerned about confidentiality of clients' order information should include in their client agreement that trading activities are subject to any short selling requirements that may be prescribed by SGX-ST or the Authority.
- 2.3 Trading Members should have in place the following measures to be in compliance with Rule 8A.3.3:
- (a) Sell orders received through voice broking. Clear procedures are in place to require Trading Representatives to ask a customer whether a sell order is a Short Sell Order or a normal sell order. Procedures should also be in place to ensure that the Trading Representative or the order entry clerk correctly enters the sell order into the Trading System. The Trading Member is not required to put in place voice recording facilities beyond its existing practices.
 - (b) Sell orders entered through order management systems (including internet trading platforms). The trading interface requires the customer to indicate whether a sell order is a Short Sell Order or a normal sell order at the point of

order entry. The sell order cannot be transmitted to the Trading System if it is not marked either as a Short Sell Order or a normal sell order.

- (c) Sell orders entered by customers with Sponsored Access. A Trading Member must ensure that all customers with Sponsored Access to the Trading System (“Sponsored Customers”) can fulfil the requirements of Rule 8A.3.3. A Trading Member must ensure that all Sponsored Customers have the necessary operational and technical systems and procedures in place:
- (i) to enable sell orders to be marked as a Short Sell Order or a normal sell order at the point of order entry in the customer’s order management system; and
 - (ii) to ensure that a sell order cannot be transmitted to the Trading System if it is not marked either as a Short Sell Order or a normal sell order.

When determining whether the obligation on Trading Members set out in this paragraph 2.3(c) has been fulfilled by Trading Members, a relevant consideration for SGX-ST is whether the requirements on Sponsored Customers have been set out in legally enforceable documents.

- (d) Record keeping of orders. A Trading Member’s daily record of orders received from customers, maintained in accordance with Rule 13.9, should show whether a sell order is a Short Sell Order or a normal sell order.

2.4 The Trading Member is only required to request from its direct customer information on whether a sell order is a Short Sell Order or a normal sell order. In the case where the Trading Member operates an omnibus account on behalf of many investors, and the Trading Member has access to these investors (i.e. the investors are its direct customer) the Trading Member should request the required information from these investors.

2.5 It is the responsibility of the end-investor to ensure that the sell order is accurately marked. The Trading Member is not required to verify that the customer has marked his sell order correctly.

3. DEFINITION OF A SHORT SELL ORDER

3.1 A Short Sell Order refers to any sell order where the seller does not own the security to be sold at the time of placing the order. Rule 8A.2.1 sets out the definition of ownership of a security. Some examples of ownership of a security are set out below:

- (a) An investor purchases the security on T. He subsequently sells the same quantity of the security two days later. On T + 3, the security which he purchases is credited into his depository account maintained with CDP (the account that a retail investor holds with CDP is also known as a Global Securities Account) and he pays his broker promptly. The security is released into the ‘Free’ balance of his Global Securities Account. On T + 5 when the security which he has sold on T + 2 falls due, the security is available to meet his sale settlement obligations.
- (b) An investor may hold a long position in Extended Settlement Contract (“ESC”) on Company A. The ESC on Company A expires on 31 May 2010 and he will receive the shares of 3 June 2010. If the investor sells shares of Company A on

1 June 2010, the shares from the long ESC are available to meet his sale settlement obligations on 4 June 2010.

- (c) An investor sells shares of Company A on 21 June 2010. On the same day, he recalls the security and under the terms of the securities lending agreement, the borrower must return the security by 12 noon on 24 June 2010. Therefore, shares are available to meet his sale settlement obligations on 24 June 2010.

Compliance with Rule 8A.3.1 under specific circumstances

3.2 SGX-ST wishes to clarify the treatment of sell orders under the following scenarios:

- (a) A seller holds his shares in trust with an overseas custodian. In the ordinary course of business, the shares would be available to CDP for settlement. An order to sell these shares is a normal sell order.
- (b) A seller holds shares listed on an overseas exchange and held with an overseas custodian. An order to sell these shares on SGX-ST is a normal sell order if in the ordinary course of business, the shares would be available to CDP for settlement. In order for the shares to be available to CDP for settlement, the shares must be in the seller's depository account, or if he is settling through a depository agent, his depository agent's sub-account maintained with CDP. The seller would be required to instruct the overseas custodian to transfer the shares into the seller's depository account or his depository agent's sub-account maintained with CDP.
- (c) A seller lends his shares but has a right of recall under the relevant securities borrowing and lending agreement. An order to sell these shares is a normal sell order if in the ordinary course of business where the seller recalls the shares, the shares would be available to CDP for settlement. The seller is not required to recall the shares prior to placing the order.
- (d) A lender liquidates the shares which a borrower had placed with him as collateral, due to the default of a borrower. An order to sell these shares is a normal sell order.
- (e) A seller borrows the amount of shares being sold prior to placing the sell order. The seller is not deemed to have ownership of the shares pursuant to Rule 8A.2.1 (a). Therefore, the sell order is a Short Sell Order.
- (f) The seller should split partial short orders, where they do not own the full quantity of securities to be sold, into two separate orders. One order is for the portion he owns (i.e. normal sell order) and the other for the portion that he does not (i.e. Short Sell Order).
- (g) A seller who has agreed to buy shares at the day's closing price or at a volume-weighted average pricing as part of his client facilitation activities and he does not have any reason to believe that the agreement would not be fulfilled. Before the price is confirmed, he sells the shares. The sell order is a normal sell order.

- 3.3 The marking of sell orders should be based on what the investor knows about its positions at the time of order entry. An example is set out below:
- (a) An investor holds 5,000 shares of Stock A. He puts in a sell order for 5,000 shares of Stock A. This is a normal sell order. He also puts in a buy order for 3,000 shares of Stock A.
 - (b) Subsequently he enters a sell order for 2,000 shares of Stock A. At the point where he enters the sell order, the buy order for 3,000 shares of Stock A has not been filled. The investor should mark this sell order as a Short Sell Order.

3.4 Aggregation of trading units/books. Where different trading units/books belong to the same legal entity, the following approaches can be adopted for the purposes of marking of sell orders:

- (a) mark sell orders at the trading unit/book level;
- (b) mark sell orders based on the aggregated positions of the trading units/books which the seller controls or has knowledge of; or
- (c) mark sell orders based on the aggregated positions of the entire legal entity.

A fund management company trading for separate portfolios can adopt similar approaches.

4. REPORTING OF ERRONEOUSLY MARKED SELL ORDERS

- 4.1 A Trading Member can submit a report electronically to correct short sell information that was marked at order entry, in accordance with the requirements for submission established by SGX-ST.
- 4.2 The requirement to report erroneously marked Short Sell Orders only extends to erroneously marked Short Sell Orders which have been executed. If an erroneous Short Sell Order has not been executed, there is no requirement to make an error report.
- 4.3 For purposes of error reporting, the customer has to determine whether his Short Sell Order is accurate in light of the actual short sales volume executed and his actual shareholding. For example, a customer thought he does not own any shares of a counter, and entered an order to short sell 8000 shares. The customer later discovers that he actually owned 2000 shares of the counter.
- (a) In the case where the order was totally executed. In this case, the customer has actually short sold only 6000 shares (8000 executed minus 2000 owned). He will have to report the erroneous Short Sell Order, stating the short sales volume executed (8000 shares) and the actual short sales volume (6000 shares).
 - (b) In the case where the order was partially filled. In this case, the order was only half filled (4000 shares executed). The customer has actually short sold only 2000 shares (4000 executed minus 2000 owned). He will have to report the erroneous Short Sell Order, stating the short sales volume executed (4000 shares) and the actual short sales volume (2000 shares).

- 4.4 SGX-ST relies on the submissions of the Trading Members to publish an updated weekly aggregate report. Therefore, Trading Members must ensure that the report:
- (a) adheres to the requirements for submission established by SGX-ST; and
 - (b) is complete and accurate.
- 4.5 A Trading Member is to ensure that the requisite fields in the report are completed in the correct format and the information communicated by their customers is accurately conveyed in the report. Reports which are not in the correct format, named incorrectly or which the securities name and code are not correctly entered will not be processed.
- 4.6 SGX-ST may request for records of corrections to short sell information at the individual order level from Trading Members. Trading Members should retain this information in accordance with Rule 12.1.1.
- 4.7 The report can be submitted from the start of the trading day following the date of the sale to 5:45 p.m. on that day.
- 4.8 A Trading Member may wish to take note of the following matters on the submission of the report:
- (a) A Trading Member should submit a single report for all securities that have been misreported. If the Trading Member wishes to update its report for the same Market Day, it should submit a revised report with the same file name before the deadline set out in paragraph 4.5.
 - (b) The transmission of the report will be via a designated Secured File Transfer Protocol (“SFTP”) folder. Trading Members who do not have access to the designated SFTP folder should contact SGX-ST to apply for the requisite access.
 - (c) In the event that the SFTP is unavailable, SGX would extend the submission period. Trading Members will be informed of the extended submission period by way of circular.

5. EXEMPTION FROM MARKING OF SELL ORDERS

- 5.1 SGX-ST has the discretion to exempt from the requirement to mark sell orders in respect of:
- (a) specific securities; and
 - (b) class of market participants.
- 5.2 Presently, market makers are not required to mark sell orders of securities which they are obligated to make a market in, as they may submit sell orders, where they do not own the security to be sold, as part of their market making function. The inclusion of these orders by market makers would distort the short sales information published by SGX, and make it more difficult for them to fulfil their market making functions.

- 5.3 Market makers include Designated Market Makers and such other entities appointed by SGX to carry out a market making function. The exemption does not extend to Trading Members with facilitation desks that provide liquidity to their clients.
- 5.4 SGX-ST will notify market participants who qualify for the exemption under paragraph 5.1(b). There is no application process for market makers.
- 5.5 The exemption from the requirement to mark sell orders of securities which they are making a market in will be withdrawn if the market maker has been suspended or has resigned from its obligations to make markets in those securities. SGX-ST will notify market participants when they no longer qualify for the exemption under paragraph 5.1(b).