



24 April 2008

Summary of response to Australian Securities Exchange Short Selling Public Consultation Paper

AMP welcomes the opportunity to provide feedback to the ASX on this important issue. The view presented represents the perspective of three parts of AMP: AMP Limited (a listed entity), AMP Capital Investors (a fund manager) and AMP Life (a lender of stock).

AMP acknowledges the recent concerns and scrutiny around the impact of short selling in Australia and believes this is fundamentally influenced by the practices of stock lending, margin lending, short selling and the interpretation of the current disclosure obligations.

While AMP believes short selling is important in creating market liquidity and is critical to efficient share price discovery, it also believes that the current system can be improved to limit informational imbalances and the opportunity for market manipulation.

AMP supports increased transparency, through definitional changes and improved reporting, to enhance market efficiency and remove the benefits flowing to some participants as a result of current ambiguities.

Background

While AMP is a significant participant in Australian financial markets, it does not meet the definition of an ASX market participant and is not directly involved in the operation of the market platform. As such, we acknowledge that many of the solutions being canvassed would be imposed on others, while being to the benefit of AMP and the sharemarket more broadly.

AMP's entities are impacted by short selling and associated issues in different ways:

AMP Limited, as a listed entity, can experience unexplained register activity and share price volatility resulting from short selling activity and is interested in better disclosure to better manage stakeholder relations and the ability to interact with and access capital markets.

AMP Capital Investors participates in short selling for some of its portfolios to implement its investment strategy and generate performance for clients. It is important to note that large amounts of short selling are conducted as a component of a broader strategy (for example a relative value trade) and any onerous restriction or regulation of short selling could adversely affect more beneficial transaction activity. In addition, not all portfolio short selling activity would give rise to a short position as defined, as there may be sufficient stock held beneficially to make any form of disclosure unnecessary.

AMP Life is an investor and a stock lender through a contractual arrangement with its custodian. Some, but not all, AMP Life portfolios participate in stock lending. While not directly involved in stock lending operations, it is interested in the efficiency of disclosure relating to stock lending pools and the impact of overall short selling volume that could impact its portfolio. This involves potential performance consequences and counterparty risk considerations (although AMP Life is indemnified against loss by its custodian).

The AMP view

AMP is supportive of any legislative amendments that would remove the current regulatory ambiguity in the Corporations Act. It also believes that the ASX rules covering the obligations of market participants would work more effectively with clearer definitions of covered short selling and greater transparency.

In light of current market conditions, AMP believes that meaningful improvements may require a combination of several approaches (some of which are contained in the ASX discussion paper), including the following:

1. tagging short sales via the CHESSE system;
2. increased fail-fees;
3. declaration of custodian net borrow positions (by company) to the ASX daily; and
4. requirements by clients to market participants to declare whether a transaction meets the proposed intention of a disclosed short sale.

It is AMP's view that negative company operating news, poor disclosure or other performance-related concerns needs to be present for an aggressive short selling strategy to be financially successful. Relative value trades do not require aggressive short selling to be successful, which is why regulating all short selling unilaterally would be counterproductive. It is also possible that corporate and directors' disclosure of 'sensitive' information has given rise to aggressive short selling and allowed negative momentum to build.

Conclusion

AMP believes that greater transparency would offer a number of benefits:

- AMP Limited (the listed company) would benefit from daily registration of short selling positions as this would provide valuable clarity around its register, thereby facilitating more effective shareholder engagement and servicing.
- AMP Capital Investors (the fund manager) would benefit from a robust stock lending and short selling environment via enhanced returns and improved market liquidity as well as the confidence gained from the reduced probability of trades failing.
- AMP Life (the stock lender) would also benefit from daily registration of short selling positions, as this would facilitate better management of its credit risk and the efficiency of its stock lending and custodial arrangements.
- Overall, AMP believes the current controversy surrounding short selling reflects the under-reporting of covered short sales and the lack of transparency as to the role of synthetic registers (stock borrow pools) in creating market volume. While the optimal solution will require a balance between a range of solutions outlined above, AMP is confident that market integrity and efficiency can be maintained.

In summary, AMP considers short selling to be a legitimate market practice which provides significant liquidity and price discovery benefits to the market overall. However ineffective disclosure fuels negative speculative activity – especially at times of corporate stress.

In normal market conditions, short selling is benign as the market tends to rise over time and this serves to regulate and balance the potential to profit from short selling. In time of market stress, however, it is more likely cause controversy and increased disclosure is likely to be the best method of regulation.

In general, AMP believes Australia has a strong regulatory framework. As the issue of short selling demonstrates, there is room for improvements at the margin but the system serves investors well and the consequences of significant additional regulation need to be carefully considered.