

1. Do you agree that the activity of short selling plays an important role in the efficient functioning of financial markets?

Yes, ISLA members agree that the activity of short selling is crucial for the efficient functioning of financial markets and is essential for price discovery, providing liquidity and managing risk.

ISLA members also believe that during this time, with an ever-increasing focus on sustainability, short selling is a key tool that can be used to deliver sustainable objectives and reduce the risk of greenwashing.

2. Do you think that the activity of short selling should be regulated in the UK? Please briefly explain why or why not.

Yes, ISLA members agree the activity of short selling should continue to be regulated in the UK. The current regime has in the most part, delivered an appropriate balance between risk mitigation and business facilitation.

3. Do you think the SSR puts a proportionate regulatory burden on short sellers in the UK market? Please briefly set out why.

ISLA believes that the SSR does put a proportionate regulatory burden on firms for the most part however, members do find that the stock-by-stock exemptions can be an administrative burden and counter to the activity-based way firms organise themselves; market making is by nature an activity that firms provide for their clients across a range of assets and does not vary operationally or from a regulatory risk perspective by stock, all things being equal. ISLA would welcome a broader exemption at the market making activity level, rather than at a stock-by-stock level. We would support reliance on the notification (disclosure to FCA for market makers) and CSDR settlement requirements.

4. Are there aspects of the SSR which you consider to be essential for ensuring market stability and confidence in the activity of short selling?

ISLA believe that disclosures and notifications enable the FCA to address misconduct and ensure a level of market stability and market confidence. ISLA would also note that locate requirements and restrictions on naked short selling also support market stability.

5. In your view would it be preferable to modify the existing SSR to reflect the UK markets, but keep the core framework unchanged, or do you think there is a case for fundamental reform?

ISLA advise that it would be preferable to maintain the core framework and only modify the existing SSR to make minor technical amendments to streamline the rules, as suggested in this response, rather than to perform a fundamental reform. The core SSR framework is well understood and embedded in the operations of the majority of market participants today, and we do not see a case for fundamental reform.

6. Are there aspects of other jurisdictions' short selling regulations that you think operate better than the SSR?

Overall, ISLA do not see aspects of other jurisdictional short selling regulation to be preferable. While there are aspects of other regimes which work well in their respective markets, we do not consider any to be so materially preferable to warrant reform in their favour.

7. Do you consider that uncovered short selling restrictions under the SSR are appropriate?

ISLA agree the provisions around uncovered short selling are sufficiently adequate.

8. Do you consider that current uncovered short selling restrictions are working effectively to reduce risks to settlement and the orderly functioning of the market, in particular current locate arrangements? What arrangements do you use and why are they effective?

ISLA believe that uncovered short selling restrictions are working effectively to reduce risks to settlement and functioning of the market.

9. Is short selling activity causing settlement failures? Do current UK settlement discipline arrangements need to be changed to reduce the risk of short selling causing settlement failures. What changes could be made and why?

ISLA do not believe that the activity of short selling itself increases settlement failures and thus do not see a reason to alter settlement discipline arrangements.

ISLA believe that the current arrangements for cover, including locate practices work sufficiently.

10. Should the FCA specifically monitor short selling?

ISLA members support a proportionate framework that mitigates market integrity and protection of client interests and risk.

11. Does the FCA monitoring of short selling help support market integrity and market confidence?

ISLA agree that monitoring short selling helps the FCA identify possible misconduct and market abuse. It also enables them to proactively engage with firms to address market integrity risk.

12. What are the costs and burdens for your firm for sending position reports to the FCA? Please provide any evidence. Are there specific position reporting requirements or arrangements that could be changed to alleviate the cost and burdens of reporting?

ISLA members make use of the public short selling information disclosed by the FCA and feel that the disclosure threshold values are broadly at the right levels today, although some further thoughts on this question are contained below in our answer to question 13.

13. Do you think the current reporting threshold and increments are set at the appropriate level? Do you think there are any benefits or risks associated with amending the current threshold? In particular, would you support reverting the threshold to 0.2%? Is 0.2% still too small?

Several ISLA members have found that the move to disclose positions from 0.2% to 0.1% has considerably increased the number of disclosures required thus increasing the administrative and compliance burden, while the benefits of this change are unclear. ISLA members would welcome a return to a 0.2% disclosure threshold with the option to reduce to 0.1% in particular market circumstances or for particular securities. However, some ISLA members feel that it would be preferable to have a higher threshold altogether. ISLA would also prefer the FCA to set the threshold at a level that does not frequently need adjusting in times of market stress, as this requires additional changes to systems.

ISLA members would additionally encourage a later cut off time for disclosure past 15.30 in local time, to accommodate transactions trading on a T+2 basis.

ISLA members would like to raise awareness of the potentially increased operational and settlement burden that would occur in a move to a T+1 environment.

14. Are there other adjustments to the reporting requirements which you would suggest?

ISLA have no preference to make other adjustments to the UK SSR although seek alignment of the core framework with other jurisdictions.

15. Do you support the requirement to publicly disclose net short positions under the SSR? What would be the impact to your firm or the market if public disclosure requirements were to be removed?

ISLA support arrangements that provide certainty and confidence to the market, and transparency to investors where cost is proportionate.

The majority of ISLA members operate across several jurisdictions, and so the removal of these requirements in one location, would have limited impact.

16. How do you use public net short position disclosures and how does it support your firm's activity or the market?

ISLA feels that public net short position disclosures should be regularly used by firms as part of their risk management decisions. The information in the public disclosures can provide market colour on a specific security and in certain scenarios.

17. Do the public disclosure requirements contribute to or create any unnecessary barriers to short selling? If yes, please provide details.

ISLA members do not find that the current requirements unduly inhibit market participants' short selling strategies.

18. Are there public disclosure requirements that could be changed to remove any unnecessary barriers to short selling? For example, do the identities of the position holders need to be disclosed and what would be the impact on your firm and the market from removing this?

The public disclosure requirements may present more of a barrier for ISLA member's clients (buy-side end users) as opposed to ISLA member (mainly sell-side) firms directly. ISLA would welcome consideration to disclose aggregate positions vs individual positions.

19. Do you consider that public disclosure requirements could be improved to increase transparency to the market? What are your views on publishing a net aggregated position report to supplement or replace current reporting arrangements?

ISLA believe that net aggregate position reports would be more useful to the wider market.

20. Do you think the current market maker exemption regime in the SSR functions efficiently? Are there aspects of the market maker exemption regime requirements or arrangements that could be changed to reduce burdens and improve its efficiency?

The stock-by-stock exemption or venue membership is an administrative burden for ISLA members and has limited value to market participants. ISLA members would prefer an activity-based exemption as an alternative. ISLA would also suggest providing equivalence for market makers that are not members of UK venues, but members of other equivalent venues.

21. Do you consider the FCA should have powers to intervene in the market in relation to short selling activity in exceptional circumstances? What would be the impact if short selling bans were to be removed under the UK regime?

ISLA members welcome the FCA's pragmatic approach in relation to their use of these powers to date. Whilst there are aspects of the SSR that are essential for market stability and confidence, ISLA recognise that the evidence is mixed, in terms of the effectiveness of short selling bans in reducing market volatility vs exacerbating market volatility. However, on balance we do consider that the FCA should have the power to intervene in exceptional circumstances. ISLA note that in any case for a ban, there should always be an exemption in place for market making activity.

22. Do you think any changes could be made to increase the effectiveness of existing short selling bans?

Overall, ISLA have no preference for the powers provided to the FCA however, with regards to further clarity in relation to the purpose and parameters of any ban to enable their effective implementation by market participants, the following are further examples that would be helpful:

- Clear indication of products and sectors in-scope of the ban, including application to derivatives, American Depository Receipts (ADRs) and indices (and respective index weightings exemptions where applicable);
- Exchanges in-scope; and
- Whether the restriction applies to initiating a new short position or creating a net short position (including rolling a derivative where they result in a net short position).

Where there is a genuine need for hedging strategies to continue, these should not fall within the scope of a ban.

23. Are there any alternative arrangements to short selling bans that could be put in place (including arrangements from other jurisdictions)?

We have no preference for the powers provided to the FCA or how the FCA may decide on utilising those powers effectively however, ISLA would encourage the FCA to disseminate overseas bans (for instruments that trade on UK venues) as early in the trading day as possible.

24. Do you consider that the current requirements and arrangements for overseas shares are effective? What changes could be made to improve the arrangements for overseas shares under the SSR? Could the overseas shares list be changed to a "positive" list of shares that are required to be reported/covered by market participants?

ISLA believe that the current requirements for overseas shares are generally effective. However, if retained, the overseas shares list could be updated more frequently and made available in a more accessible format. Alternatively, we note that if there is a move to creating a positive list, this may involve initial changes to systems and processes which may include increased costs.

25. Please provide any further views on the SSR, including views on the arrangements relating to sovereign debt and sovereign credit default swaps.

ISLA have no further views.

26. For firms operating in multiple jurisdictions, please provide views on the potential operational impact of changes to the UK short selling regime (e.g., IT changes).

Proposals discussed as part of this Call for Evidence are not expected to create significant IT or additional operational costs and we support changes that are made in a proportionate manner.