

Fund Update

Antares Lodestar Absolute Return Trust - Australian Shares

09-05 ASIC extends ban on covered short selling of financial securities

Wednesday 21 January 2009

ASIC today said it would keep the ban on covered short selling of financial securities in place until Friday, 6 March 2009.

ASIC advised the market on 13 November 2008 that the current ban on covered short selling of financial securities (as defined in ASIC's release of 13 November 2008) would remain in place until at least 27 January 2009.

This approach was consistent with many other jurisdictions, including the UK, where the Financial Services Authority (FSA) planned to lift its short selling ban on certain financial securities on 16 January 2009.

The FSA lifted its ban on 16 January 2009 and ASIC expected to then lift its ban, so as to be in line with the other major markets.

ASIC, however, noted the recent increase in volatility in financial stocks in overseas markets. ASIC is not at this stage in a position to assess if the resumption of short selling in the UK was coincidental or contributed to this volatility and if so, to what extent.

As many factors are at play in these overseas markets, ASIC needs time to examine these latest developments. ASIC will therefore, over the next few weeks, assess the markets more carefully to determine the role of short selling and aggressive or predatory practices and whether there are similar risks for Australia when the ban is lifted.

ASIC believes that in the context of the renewed volatility affecting banking stocks in many markets, including the UK and USA, this cautious approach is warranted. ASIC believes that any possible loss of market efficiency or price discovery as a result of this additional short period of review is therefore justified.

ASIC's decision to extend the ban on covered short selling of financial securities is also in the context of a legislative framework that recognises short selling as a legitimate mechanism of price discovery and liquidity, subject to disclosure and subject to intervention by ASIC in exceptional cases.

ASIC's intention is and remains to keep its intervention to an absolute minimum. ASIC will continue its consultations with relevant stakeholders and other regulators in Australia and overseas.

ASIC will keep the position under review, and might decide it has sufficient information to be able to lift the ban earlier than 6 March, and will make a decision for 6 March closer to that date.

Publication of short selling data

ASIC's current reporting and disclosure regime will continue pending the commencement of the Government's permanent measures. Continuing to require disclosure of covered short selling will reduce the potential for abusive behaviour and disorderly markets.

Stock lending

ASIC reminds market participants that borrowers must have a presently exercisable and unconditional right to vest securities for delivery at the time of a covered short sale. These arrangements must comply with section 1020B of the Corporations Act. ASIC's Regulatory Guide 196 *Short Selling: Overview of s1020B* [RG 196] clarifies what constitutes a naked short sale.

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Key details

1. Covered short selling of financial securities will continue to be banned;
2. Covered short selling of non-financial securities is unaffected and will still be permitted;
3. The daily reporting of gross short sales will continue as will the publication to the market of aggregate short sales by security the day after trading; and
4. ASIC requires strict compliance with the ban on naked short selling as outlined in RG196.

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