UK Finance

UK Finance response to FCA CP25/29

Changes to the UK Short Selling Regime

December | 2025

Financial Conduct Authority (FCA): UK Finance response on CP25/29 – Changes to the UK Short Selling Regime

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Submitted via email to: cp25-29@fca.org.uk

UK Finance thanks the Financial Conduct Authority (FCA) for the opportunity to share our views on the above consultation. Please find enclosed the collective response of the member firms of UK Finance, provided with advisory support from Freshfields LLP.

We welcome the FCA's momentum to deliver a regulatory change programme tailored to the UK, to support the orderly and effective functioning of the market. Short selling one supports how modern markets function as one of many tools used in portfolio management to hedge risk, and support price discovery and liquidity. Short selling is regulated soundly in the UK and upholds, consistent with international practice, market integrity and public confidence. We welcome the consultation which has provided guidance and has focused on technical refinements rather than wholesale reform. Overall, we believe that the FCA has taken on board feedback from our members to make targeted and technical changes to improve the UK's short selling regime.

Our thematic response addresses areas where we believe further changes could contribute to a more competitive, agile and open short selling regime for firms operating in the UK.

Thank you for your continued engagement both prior to and during the consultation. We look forward to continuing to work with the FCA. If you have any questions in relation to the information within our submission, please do not hesitate to get in touch.

We consent to UK Finance name published as a respondent to this consultation on the FCA's website.

General comments

UK Finance supports the proposal to create a new Short Selling Sourcebook within the FCA Handbook, providing clear and accessible guidance for firms.

We thank the FCA for committing to set out additional guidance for firms throughout this consultation to reduce the complexities of the regime.

UK Finance response to HM Treasury Short Selling Call for Evidence

In our 2023 response to HM Treasury's *Short Selling Regulation Call for Evidence*, we set out our recommendations for HM Treasury and the FCA to improve the Short Selling Regime.

UK Finance members are pleased that HM Treasury and the FCA, through the Short Selling Regulations (SSR) 2025, and the consultation paper (CP25/29) have taken on board a number of our recommendations.

Key UK Finance asks reflected in HM Treasury SSR 2025 and the FCA's consultation include:

- Removal of the 30-day notification period from market maker exemptions
- Disclosure regime for net short positions, including anonymised individual positions
- Application of emergency intervention powers to be used in the market judiciously
- Creation of a positive securities list setting out in-scope shares
- Removal of sovereign credit default swaps (CDS)

Timing of implementation dates

UK Finance recommends that the FCA avoid key holiday times, such as August, Easter and the end of the year, for implementation dates.

We remind the FCA that members have technology freezes at the end of the year so implementing changes around that period, including Thanksgiving, Christmas and New Year, should please be avoided at all costs. We note that historically the FCA have favoured end of November or 1st January for implementations.

We request at least six months' notice, preferably longer, before the commencement date. We ask that the notice period factor in the extent of the changes the FCA will undertake. We ask that the FCA also factor in the industry's response to FCA questions on the Reportable Shares List (RSL) (see discussion on Reportable Shares List below).

UK Finance comments on CP25/29 proposals

Requirements for calculating and reporting Net Short Positions (NSPs)

UK Finance call for the FCA to make a change to the current position of how NSPs are calculated.

We refer to the calculation logic proposed by the FCA to replicate the existing requirements for calculating NSPs. We note that this calculation logic may result in the disclosure of a net short position in circumstances where the short is, in fact, a hedge for a long position held in an excluded instrument. A short position held as a hedge to a long convertible bond position would be reportable for example as convertible bonds, converting into shares not yet in issue, would be out of scope for the calculation logic.

Given that this aspect of the calculation logic would not provide a transparent view to the market of true net short positions (because of the disclosure of additional positions), we would suggest that the FCA please reconsider this approach. As an alternative to the proposed calculation logic, the FCA could reconsider the scope of instruments included in the net short position calculation by including convertible bonds and warrants and adjusting the denominator with the as-converted equity holdings. This approach would be similar to the US approach which includes convertible bond positions.

UK Finance acknowledges, however, that adjusting the calculation logic on this basis may be operationally burdensome as it will require manual calculations for the denominator in respect of the number of shares underlying instruments such as convertibles and warrants. UK Finance members suggest, therefore, that a similar approach to how a net short position is calculated for derivatives should be used specifically in the case of calculations of net short positions which include convertible bonds and warrants. This approach uses a net adjusted delta and looks at the convertible bond or warrant as a wholly synthetic position.

Issued share capital

Sources and identification of issued share capital

UK Finance calls for the FCA to provide stronger guidance for firms on the use of market data providers, to ensure that the sources of issued share capital provide accurate data. Firms note that they would ideally like to be able to rely on receiving data from one market data provider to calculate their NSP accurately.

Many companies, for example, only provide updated issued share capital information on the morning following trading, which means that updated numbers are only available at 7am (or slightly later). Market data providers send their updates overnight, before the updated data is available, which means under the current proposals, there will still be a requirement to search for manual updates before submitting NSPs. Members would welcome further guidance. Such guidance might entitle the firms to calculate their NSP based on a feed from a market data provider at a reasonable point in time, prior to the company ultimately providing the update.

UK Finance members also note that, whilst the FCA guidance is helpful on sources which firms can use to identify the issued share capital of companies, this does not reduce the burden of identifying the issued share capital administratively and operationally for firms. Additionally, we note that many firms are using automated solutions with market data feeds. There are disparate requirements between the UK SSR denominator, on the one hand, and the denominator used under the Disclosure Guidance and Transparency Rules (DTR). These require firms to source two data items: shares in issue and shares held in treasury. Accurate reference data for shares held in treasury is not available from all market data providers; accordingly members often require access to multiple market data feeds in order to form an accurate picture.

EU approach

UK Finance notes that in the EU, under the Transparency Directive (***TD***), most EU countries require both shares issued and shares held in treasury to be used for their significant shareholder reporting obligations.

This means that disclosures for TD purposes can be used as the denominator for calculating the net short position under the Short Selling Regulation. For those countries, this is the shares outstanding figure available from Bloomberg, reducing the burden on reporting firms from sourcing two different denominators from potentially multiple market data providers.

Most EU jurisdictions also require firms to include shares held in treasury for long calculations. Data that is fed through from the exchanges to market data providers, is therefore the data needed to make your reports under the Directive. Firms can comfortably rely on the data provided by a market provider, who is receiving those feeds from the exchange.

We note that the UK is an outlier in the long position calculation by not including treasury shares.

UK Finance believes that a centrally available database of the denominator to use would be ideal. UK Finance request having conformance in respect of data reported by firms under the DTR and data used by firms when calculating the denominator under the UK SSR.

Reporting for constituent legal entities within a group

UK Finance members are concerned with the approach for the calculation and reporting of NSPs for legal entities within a group.

UK Finance notes, that once a firm is over the threshold at the group level, then it is a group notification for reporting, but if the group is not over the threshold, then legal entity notifications are required. Where a group ceases to have a notifiable position at group level, then individual legal entities must start reporting again. This means that a group must continue to calculate NSPs at the legal entity level even where there is group-level reporting. Therefore, UK Finance proposes the following for the FCA when approaching group reporting:

- No difference in calculation between managed and non-managed positions. This would also allow larger firms that have both managed and non-managed businesses to calculate the position in aggregate across the entity.

- Calculate the NSP solely by the group, not on an entity-by-entity basis, which is more complex for firms to calculate. Calculating NSPs on an entity-by-entity basis can give a misleading view of the true short position, as net long positions held in different entities are ignored.
    - For example, a firm could be long on one legal entity (A), and hedge that position with a short in another legal entity (B) – legal entity B may have to report a NSP even though there is no reportable NSP at group level.

- Further, it is burdensome on firms to monitor and calculate reporting positions simultaneously at both a legal entity and a group entity level. At the group level, firms are required to aggregate all short and long positions that are not subject to the Market Maker Exemption to determine if a group NSP is required to be reported. If the group then does not have a NSP above 0.2% to report, then it stops aggregating and each legal entity in the group is then required to calculate and report any applicable individual NSP. The result is that the group will still be required to keep monitoring on an aggregate basis in case the group has an NSP to report. Therefore, constant monitoring on a group level and individual legal entity level is required.
- For firms to provide a realistic position to the FCA and the market, calculating NSPs solely at the group level is more appropriate, rather than at each legal entity.

This would then remove the complexity of legal entity and group notifications and provide a more accurate position to the market.

Group notification status field

Please refer to our comments above on group reporting.

If the FCA removes the legal entity / group notification requirements, the proposal for an additional field to NSP notification and correction forms is no longer needed (proposal seven in CP25/29). We note this requirement is one of the more complex aspects of the calculation and reporting of NSPs and it would be helpful for this to be simplified.

Calculation of net short positions in ETFs and UCITS

UK Finance members request that this is simplified to either always include Undertakings for Collective Investment in Transferable Securities (UCITS) and Exchange Traded Funds (ETFs), or always exclude UCITS and ETFs.

The proposed additional requirement would result in a manual process to identify those UCITS and ETFs in scope of reporting, which generates more burden on the reporting firms.

Position reporting rules waiver

We broadly welcome the ability for the FCA to apply a waiver from reporting requirements but request that the FCA provide further detail on what circumstances would be considered exceptional to request such a waiver.

Plan to update the operational arrangements for the submission of position notifications

In addition to bulk submissions, UK Finance requests that reporting firms be able to provide a single file using point-to-point file transfer to submit NSPs, without the need for an individual to log into the PMU portal and manually upload a file.

This will have a significant operational benefit for reporting firms.

Aligning the requirements for locate arrangements with borrowing arrangements

UK Finance members are concerned by the FCA's proposal 15, that if locate arrangements are aligned with borrowing arrangements, this would result in borrowers requiring more legal certainty around locates. This may have an unintended consequence of potentially requiring lenders to hold or segregate availability until notified and create greater liability for lenders.

Maintaining the Reportable Shares List (RSL)

UK Finance members would like the FCA to confirm that reporting firms may exclusively use the RSL to determine in-scope reporting obligations and will not be required to identify potential additions to the RSL between the monthly updates.

Members are of the view that if firms can rely solely on the RSL to identify issuers in which firms need to report NSPs, this is an agreeable approach. If, for example, a new company is admitted to trading on the LSE and meets all criteria for inclusion in the RSL, reporting firms are not expected to manually work out whether to include that new company in the scope of reporting obligations. Members then request that the RSL is updated on an as-needed basis so that reporting firms can exclusively rely on the RSL.

We are concerned about the problems that could arise if there is an expectation on firms to identify issuers themselves. Whilst the RSL will be updated monthly, changes may arise within the month (such as new admissions to trading/removals) which would need to be factored in, whilst making the determination. Firms might not have all the data points needed to identify the issuers themselves.

UK Finance members request that the RSL can be obtained via an API or other method that does not require manually downloading a file from a website (similar to obtaining EU FIRDS data via ANNA).

Noting the scale of changes the RSL will bring to members, technical specifications and fields should be published at a minimum six months prior to the main commencement day so that sufficient time is provided for IT systems to be designed and built for the automatic processing of the file. A draft list two months prior to commencement date would be sufficient as outlined in the consultation paper.

Market Maker exemption

UK Finance members do not support that the FCA has maintained an instrument-by-instrument approach, we instead call for the FCA to allow for market makers to benefit from activity-based exemption.

- UK Finance members believe that it would be more efficient for the notification process to operate such that all market-making activities of the relevant firm are exempted once a notification has been made, rather than ISIN-by-ISIN notifications being required which are unduly burdensome for firms and likely also for the FCA.
- UK Finance members note that the instrument-by-instrument approach is not justified and appears as a hangover from the original Short Selling Regulation regime. In particular, the Short Selling Regulation originally covered all shares admitted to trading on a trading venue in the EU. The original regime assumed a firm might meet the conditions to be a market maker in some of the ISINs, but not all of them. However, in the new regime where there is a much smaller number of shares on the RSL, a firm which meets the conditions of the market maker exemption may be expected to meet the conditions for all of the ISINs on the RSL.

Streamlining the process for using Market Maker Exemptions

The July 2023 Short Selling Regulation Review: Government Response revealed that "the current requirement for market makers to notify exemptions at an instrument-level, as well as operational arrangements for submitting exemptions were highlighted as burdensome."[1] We are therefore disappointed that the FCA has maintained an instrument-by-instrument approach to the Market Maker Exemption. We believe that the Market Maker Exemption should apply to all the market-making activities in all financial instruments in which the entity deals.

Should there be no movement on this approach, members request that the FCA please provide a tool for downloading (in machine-readable format) all ISINs and LEIs for which an MME exists for reconciliation purposes. Members state that it would be useful to be able to download the full list of ISINs and LEIs so that these can be incorporated into systems, rather than maintaining a manual list (on a spreadsheet), which would then need to be reconciled against the FCA database periodically.

[1] See paragraph 3.23.in FCA CP25/29

ANSP calculation

The FCA proposal to issue guidance to clarify that the regulator will exclude NSPs from the calculation of the aggregate figure, where the position is received after the reporting deadline. The FCA propose to only consider including late notifications in calculations of ANSPs on an exceptional basis (proposal 27 in the consultation paper)

UK Finance members would like further clarity from the FCA in the section in respect of firms with NSPs where a waiver was provided.

Presumably the waiver would be time limited, but further clarification on the circumstances when a waiver may be given would be helpful guidance.

UK Finance would appreciate the FCA's clarification if it were the intention that the firm would be required to report any NSPs at a later date. If that is the case, comfort would be required, given the waiver, that this would not be subject to supervisory or enforcement action.

Emergency Powers

We consider the FCA's emergency power to require lenders to report a significant change in lending fees to be unnecessary. This regulation is focused on borrowers and since borrowers are mostly the price makers, they rather than the lenders should hold the obligation.

Further, the reporting obligations under the UK Securities Financing Transactions Regulations cover lending fees and are readily available to the FCA, meaning that lenders may be double reporting as a result of this proposal. The additional requirement under the FCA's emergency powers could create an unnecessary regulatory compliance burden on lenders.

About UK Finance

UK Finance is the collective voice for the banking and finance industry. Representing more than 300 firms across the industry, it seeks to enhance competitiveness, support customers and facilitate innovation. Our primary role is to help our members ensure that the UK retains its position as a global leader in financial services. To do this, we facilitate industry-wide collaboration, provide data and evidence-backed representation with policy makers and regulators, and promote the actions necessary to protect the financial system. UK Finance's operational activity enhances members' own services in situations where collective industry action adds value. Our members include both large and small firms, national and regional, domestic and international, corporate and mutual, retail and wholesale, physical and virtual, banks and non-banks. More information is available on our **website**.

We thank the team at Freshfields who assisted with this response.

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