

Dear Sir,

I wish to make a short submission on this exposure draft. I apologise that the submission is slightly late. I do not believe that borrowing stock results in a covered short sale. In normal circumstances borrowing does not result in a legal transfer of title between borrower and seller. I suggest that the public would be horrified to learn that by taking out a mortgage on their residential home they have transferred the title to the bank who lent them the money. For short selling to be covered by a borrowing arrangement is a legal loophole that does not reflect normal commercial understanding. This Bill should reflect commercial reality and come out and say that borrowing does not result in a legal transfer and is a mere legal mechanism to get around the current section 1020. Covered short selling should be explicitly defined as per its original intention - that is entering into an arrangement covered by stock you already own.

I fully support the proposal that all short sales should be disclosed. I believe that for a fully informed market all short sales should be disclosed. More importantly the disclosure should include details of the beneficial party entering into the short selling arrangement - not merely a nominee company acting for a Swiss domiciled fund that never discloses its identity.

I also believe strongly that the party lending stock should have explicit consent for each transaction from the ultimate beneficial owner of the shares. Currently custodians lend the stock for a fee. Custodians hold stock on behalf of owners as a safe custody activity. Normally the owners of that stock have purchased those shares to benefit in the increase in value of that stock. For the custodians of the shares to then lend those shares to a 3rd party who is attempting to benefit from a decrease in value of that stock is a total conflict of interest and is totally acting against the beneficial owner's, their client's, interest. Custodians should be forced to obtain the explicit consent of the beneficial owner of the shares for each transaction, should as part of that consent explain what the purpose of the transaction is and if it succeeds how it will impact the value of the beneficial owner's interest and disclose what fees the custodian receives from the transaction and who benefits from those fees.

Regards
James Beecher