



CHARTERED SECRETARIES
AUSTRALIA

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ASIC relaxes ban on naked short selling

The Australian Securities and Investments Commission (ASIC) has issued Class Order [CO 09/774] which grants conditional relief to financial product market makers to allow them to engage in naked short selling to hedge risks from market-making activities.

The aim is to enhance liquidity in Australian markets by facilitating hedging and to maintain confidence in markets by dealing with risk.

Naked short sales tend to have higher risks associated with them because, at the time of the sale, the seller does not have a current and exercisable right to vest the product in the buyer.

Until January 2009, there had been an exemption to the prohibition on naked short selling by some market makers. It has not been reintroduced, subject to certain eligibility requirements and conditions.

The financial product must be a constituent of the ASX 200 index.

In addition, by the end of the day of the transaction, the market maker has to:

- acquire a financial product of the same class as the one short sold or
- enter into a contract to do so or
- enter into a securities lending arrangement to do so.

This class order relief arises from consultation ASIC performed when it released Consultation Paper 106 (*Short selling to hedge risk from market making activities*) in April 2009.