



# Short Sale Rules in Korea

Financial Investment Supervision Department

Financial Supervisory Service

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## 1. Basics of Short Sale of Securities

### No naked short selling

- The determination of whether a sell order constitutes a short sell order is made on the basis of the seller's net position at the time of the sell order.
- Naked short selling, also known as naked shorting, is not permitted.
- Short sellers must own the securities to be shorted; for the purpose of short selling, a seller who has borrowed a security to carry out a short sale (covered short sale) is deemed to own it.

### Short selling under flagging and uptick rules

- A short seller who sells a borrowed stock is subject to flagging and uptick rules.
- The seller must be in a net long position in order to sell a security as a long sell; any shortfall must be flagged as a short sell.

### Calculation of net position

- Only securities to be shorted may be included in the calculation of the seller's net position.
- Stock-related securities such as DRs, futures, forwards, options, and swaps are excluded in the net position calculation. They may be included in the net position calculation, however, if (i) they are converted into the security to be shorted, and (ii) the converted security is available for settlement until the settlement date for a sell order.



### Aggregation units

- All the open short and long positions of the seller are netted across different accounts.
- For a legal entity, the positions are to be netted at the firm level. For an individual foreign investor, the positions are to be netted on the basis of the IRC.
- Local financial service firms under the supervision of the FSS and overseas brokers and dealers may maintain multiple aggregation units (position netting units) at their trading desks, provided that: (1) each aggregation unit complies with trading independence requirements; and (2) overseas entities (or IRC holders) maintain a local backup copy of the relevant documents and records by designating a local standing proxy for the management of the backup copy. (Local broker or dealer should be consulted for the specific requirements.)

### Recognition of ownership of borrowed security

- The short seller's ownership of a borrowed security is recognized when the security has already been borrowed or a binding security-borrowing agreement has been established between the short seller and the lender.
- Having an easy-to-borrow list, locating borrowable stocks, or receiving a "hold" notice from a security lender does not constitute security borrowing for the purpose of ownership recognition.

### Lender ownership and recall

- The seller must establish ownership of a security before placing a sell order for the security irrespective of whether the seller's position is net long or net short.
- The ownership of the security lender is recognized when the lender recalls the security lent to the short seller prior to the execution of the sell order.



- Lender ownership may also be recognized with a recall even after the short seller's sell order is executed if there are reasonable grounds to believe that the trade would be settled based on a securities lending and borrowing (SLB) business practices; however, the lender must initiate the recall as soon as he is informed of the execution of the sell order.

Keeping records on securities borrowing date & time

- When requesting an SLB intermediation service for settlement, the security borrower must inform the SLB intermediary (KSD, KSFC, and local securities firms) of the date and time of the original security-borrowing agreement and maintain appropriate supporting documents such as e-mails, instant messages, and time-stamped records.



## 2. Net Short Position Reporting Requirement

### Reporting condition and threshold

- Where a legal entity or a person ("investor") holding a net short position on shares issued by a KRX-listed company exceeds the reporting threshold, the investor must file a report with the FSS on the net short position.
- A net short position equal to or greater than 0.01% of the total issued shares (including preferred shares) of a KRX-listed company must be reported.

### Reporting frequency

- Where an investor carries out a short sale trade that triggers his or her net short position (as of midnight on each trading day) to exceed the reporting threshold, the investor must file a report with the FSS within three business days of the transaction (by 9 a.m. on the third day after the transaction).
- The investor must file a report on the net short position with the FSS on a daily basis until the net short position falls below the reporting threshold.

### Netting of aggregation units

- For a legal entity with multiple trading accounts, all of the open positions on each individual stock must be aggregated and netted. For individual foreign investors, IRC-level netting is required.
- Overseas brokers and dealers operating multiple aggregation units must net all open short positions of the aggregation units and report the aggregated net positions that exceed the reporting threshold. For instance, if an entity has aggregation units A, B, and C with net positions of +200 shares (net long), -300 shares (net short) and -50 shares (net short), respectively, the aggregated net short position of the entity is 150 shares (+200-300-50).



### Reporting on the net short positions

- In order to comply with reporting on net short positions, investors must first register at the Net Short Position Reporting Service on the FSS Internet website.
- After completing the registration form, each investor will receive an investor ID that will be used to log in to the reporting service website.
- The main reporting items are (1) personal information of the position holder (and the reporting person, if different), (2) code and name of the share, (3) the net short positions (quantity and proportion to the total issued shares).
- Please note that there is no English reporting service available at the moment. Foreign investors therefore are advised to file their report through their local standing proxy.