

for the most part, i support this document. action must be taken globally because money is moving globally.

we need audits of brokers, to be sure of customer assets. IOU's, options, derivatives do not replace assets that are supposed to be held in the care, custody and control of brokers. assets should exist as more than an electronic tick. there should be physical custody of the assets.

if a financial market infrastructure fails, the customer assets should be clearly recorded, no matter where these assets are located: repository, clearinghouse, brokerage, bank. customer assets should not be used to pay for broker's liability.

trade repositories should allow communication and updating of title information. brokers should verify ownership of assets. this would most likely be done during the process of a broker audit and verifying customer assets are segregated.

if an asset is questioned as counterfeit, the broker should have procedures in place to verify whether an asset is counterfeit or real. if the asset is counterfeit, there should be procedures to notify authorities and turn over that asset. any counterfeiters should be prosecuted. the asset should not just be sent back to the origin or sent on to a different broker.

there is little mention of shortselling or naked shortselling.

naked shortselling should not be tolerated at all. the imaginary shares inflate the # of outstanding shares in order to reduce demand and therefore reduce price. broker software should prevent selling anything that is not in the account's portfolio without borrowing shares. and on T+3 settlement, the borrowed shares can be delivered, however this borrowing creates a new trade, with a new settlement date. i think the settlement date on the borrowed share transaction should be T+1.

if a broker is found to allow naked shortselling or transactions that have not yet settled without having the securities to deliver, then the broker should have a progressive penalty. such a penalty should deter the broker from continuing to allow naked shortselling. the penalty of risking a license to trade should be the last penalty assessed.

this global habit to shortsell is trashing global markets. there is too much \$ shortselling around the world, so much \$ that it removes risk. all the risk is on the side of the investor. and as a result, prices trend downward. do you expect markets to recover with so much \$ forcing prices downward? investors know they have lost \$ and they don't wish to put more \$ into the market as tomorrow's price will be less than today's price. shortselling is a capital outflow from the market. when shortsellers are taking \$ out of the market faster than investors can put the money into the stock market, prices go downward.

stock markets exist for capital formation. shortselling does not contribute to the market's primary focus. traders also are parasitic to a capital market. many rules and regulations are careful to allow the parasitic trading. much more attention needs to be paid to the community good of capital formation. while brokers may value the fees that daytraders and shortsellers and high-frequency traders generate, none of those short-term traders contribute to the capital formation of the stock market. investors may have to pay more fees, however by not sufficiently

regulating the market, the current state is that investors are tending to lose \$ through the fraud of naked shortselling.

clearinghouses and counterparties should have access to the margin of a broker and should be able to subtract the transaction cost so that margins can be updated.

shortsellers often open multiple accounts with multiple brokers, but they fill out their paperwork giving their assets for each one of them. this means that their net worth is encumbered by 10 or more brokers, but each broker doesn't necessarily have liens or public notice to others that they have a claim on the asset. when a client signs up for a margin account, the broker needs to file a paper to indicate to other creditors that an asset is encumbered to a particular value.

much work has to go into the cross-border trading. if a foreign broker fails, and the foreign broker's customers owe \$, then the clearinghouse and counterparty need to be able to retrieve assets from the customer to settle any outstanding trades.

brokers who enable illegal activity should suffer when caught. a small fine will not deter them. many of the infractions are fraudulent. the financial industry is the only industry that does not punish fraud sufficiently. while people who misrepresent securities lose their license, shortselling actions invite admiration and the authorities do not take the licenses of the broker or brokerage. i do not know why this inequity exists and is tolerated. so far, the shortselling fraud is enabled by government and financial markets. if i were to overdraw my bank account for days or months, the bank would close my account sooner, rather than later. if i were to write a check that i could not pay and cover by writing another check on another bank and keep doing this, i think it is called kiting. i would be liable for criminal prosecution. yet this is tolerated in the securities market. customers are not prosecuted and brokers are not prosecuted for allowing it. yeah, the brokers discovered a new financial product, theft and fraud.

illegal activities are a global financial threat. they affect the well-being of the people of the world.

i have another concern. the proliferation of entities begun by brokers. can a broker clear their own transactions? can brokers clear for other brokers? if they put up the collateral to clear, then yes, if they are licensed, if they are supervised by a regulator who certifies that the broker knows how to clear trades. can a broker be a dark pool? i don't think so. the broker could short all the customers' orders without any oversight. it turns the broker away from accepting orders from the retail market and into an entity that promotes its own financial position against the customer. regulators should be very wary of entities that seek to wear many hats, of the movement of goods and money between them. financial entities require collateral to indicate to counterparties that they can fulfill their responsibilities. if transactions are not performed arms-length, does this benefit the entity, the market in general or the customer of the financial entity? is the new entity only performing transactions for the spawning entity?

note that HFT/high frequency traders often place many orders, execute fewer orders. however, HFT should have to follow all rules, including borrowing before shortselling. there could be significant # of trades due on the day the trades are due to settle. when an order is placed and

active, when an order is executed, the margin of the customer should be sufficient to cover possible trades and executed trades.

brokers can use the brokerage assets to fund shortselling but not the cash customers' assets, nor the margin customer's ownership of their margin accounts.

an illiquid asset cannot be counted as a customer's margin or a broker's margin. illiquid assets should be valued as zero.

i am not sure that the stock market actually requires marketmaking to smooth trade prices. if a buyer wants to buy a stock and no seller offers it, the buyer can wait for a seller to place an order to the market. the buyer knows that they are investing in a stock that has little volume.

marketmakers that take one side, such as shorting, and do not smooth the market by taking the other side, are not marketmaking. they are speculating that the price will decrease over time. no one needs to pay an entity to speculate or give them special privileges.

3.8.1

final settlement should occur on value date, which is the due date for that transaction. adoption of this principle would seem to disallow any manipulation by shortsellers who want to count an option to buy as a share of stock, or by shortsellers who wish to settle some time in the future, when it is in the shortseller's benefit.

i disagree with the report that this principle should not eliminate failure-to-deliver. if there was a failure to deliver stock because a transfer agency has not yet printed the stock certificate, this is different than the shortseller who does not want to cover their debt. the shortseller should be forced to cover on settlement day, whether it is their broker that buys in or the shortseller that buys in. every effort should be made to deliver the debt (stock certificate or other equity product) to the buyer. the buyer deserves legal title to their purchase within a timely period. if the buying broker, clearinghouse, and/or selling broker declares bankruptcy, the investor does not have title to a legal share of their stock.

3.8.5 same day settlement

because of the use of the term "value date", i am not sure if the paper proposes three day settlement is sufficient or if the paper proposes same day settlement. certainly, if electronic transfer can effect transfer of title and physical certificates follow, they could do same day settlement.

quoting:

"An FMI that is not designed to provide final settlement on the value date (or same-day settlement) would not satisfy this principle, even if the transaction's settlement date is adjusted back to the value date after settlement."

this would mean that financial market infrastructures (FMI) that are not designed to settle ON the value date would not be allowed to operate in the market. this is a big step. those businesses that

depend on delaying settlement should not have licenses to operate in the stock market. this would mean software that is designed to delay settlement, brokers that manipulate settlement date, clearinghouses that exist in order to skirt market rules.

3.9.8 finality of funds transfers between settlement accounts

absolutely, there has to be a declaration that a trade is final. this principle declares that after the trade is paid, then the trade is final. i don't know what this means when the trade is a short sale. if the customer has paid for stock and the stock has not yet been delivered, is the trade final? or does the trade become final upon 1) delivery of the stock, or 2) delivery of \$ in lieu of stock? i would not be in favor of option 2) for finality, because stock certificates are a special currency, limited, and this debt is owed not only to the particular counterparty, but to the investors of the stock generally, because the short sale was executed in order to lower the price of the stock because it created the trade out of thin air, increased the float of the stock.

FMI should give the name and addresses of their repository for customer assets and company assets. these should be updated within a short time when changed.

there should be a penalty for failure to close transactions and the FMI should close the transaction out.

it is unacceptable to turn a trade into a futures contract without the buyer's consent. and the buyer's broker should not allow this to occur because of fiduciary duty to the purchaser.

recommendation 5: securities lending

borrowing securities to deliver at settlement time should be encouraged.

but this also creates a securities debt to the lending broker that must be settled promptly.

what if the securities cannot be borrowed because all securities have already been borrowed?

nothing is said about voting privileges, dividend payment.

in my opinion, margin agreements should state that the broker will lend \$ and therefore can control the stock to the extent that the broker owns the stock.

i see nothing in here about hypothecation and re-hypothecation, cross-border lending.

borrowed securities must be returned, so borrowing must occur daily.

borrowing securities cannot postpone payment of the debt to the market.

there should be a recommendation that shortselling can only occur by first borrowing stock.

recommendation 6: central securities depository

this recommendation is useless if financial market infrastructures do not reconcile their holdings.

where is recommendation 7-11?

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recommendation 12: protection of customer securities

addresses customer account segregation procedures, custody

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payment

there should be no benefit to delaying payment.

who is earning \$ when securities are not delivered in a timely fashion?
should buyers be notified if settlement is delayed?

page 159:

three different models of payment systems are presented.

i would say that they must consider the best model for:

- 1) public good
- 2) stock market
- 3) investors
- 4) trade participants
- 5) FMI

you can see that the vested interests of the other parties outweigh the vested interests of the FMI.

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settlement process:

- 1) confirm terms of settlement
- 2) clearance

this section discusses netting. i think netting is forcing broker customers to fund shortselling.

further, i think that customer balances are at risk in the netting procedures.

- 3) settlement

if settlement does not occur, these parties should settle the trade by providing like security within one day:

- 1) central counterparty/clearinghouse
- 2) selling broker
- 3) buying broker

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