



October 16, 2008

Florence E. Harmon
Acting Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Dear Ms. Harmon:

Re: Release No. 34-58785; File No. S7-31-08
Comments on Short Sale Disclosures, Emergency Orders and
Proposed Amendments to Regulation SHO

Fairfax Financial Holdings Limited ("Fairfax") strongly supports the Securities and Exchange Commission's (the "Commission") efforts to maintain fair and orderly markets, and to build on the emergency measures adopted in the current turbulent market conditions in order to achieve a permanent bulwark against weaknesses which were dramatically exposed in the current conditions.

In particular, we believe that the Commission's efforts to enhance regulation and transparency with respect to the practice of short-selling are important steps in the right direction. As expressed in our letters of September 19, 2006, May 22, 2007, September 12, 2007 and July 28, 2008, Fairfax strongly supports the Commission's efforts to reform the regulatory and disclosure framework that applies to short-selling in the country's public equities markets.

In September and October 2008, the Commission issued several emergency orders, including Securities Exchange Act of 1934 Releases No. 58591, No. 58591A, No. 58724 and most recently No. 58785 that provided, on a temporary basis, for the reporting of short positions by certain market participants. In addition, the Commission announced several examination and enforcement initiatives and issued new orders amending Regulation SHO. We believe that these are important steps toward ensuring a rational system of regulation and disclosure that is fair to all market participants.

Fairfax Background

Fairfax is a financial services holding company that is listed on the New York Stock Exchange (“NYSE”) under the symbol “FFH”. Through its subsidiaries, Fairfax is engaged in property and casualty insurance and reinsurance and investment management. As at June 30, 2008, Fairfax had total assets of approximately \$26.8 billion and total shareholders’ equity of approximately \$4.7 billion. Our revenue for the twelve months ended December 31, 2007 was approximately \$7.5 billion.

Stop the Dissemination of False Information

Fairfax, in its dual role as a substantial investor in the U.S. capital markets and as a U.S. public company that is listed on the NYSE, strongly supports the Commission’s efforts to combat market manipulation and to enhance transparency in the public markets.

The Commission’s enforcement of existing statutes and regulations to combat fraud and the spread of false information into the financial markets is of primary importance. Market participants, such as hedge funds, are free to disseminate statements about public companies into the marketplace; however, they are not permitted to knowingly or recklessly make false statements about an issuer in order to manipulate that company’s stock to support their own trading positions. As alleged in public court filings, Fairfax has been the victim of a coordinated attack by short-sellers and others, the lynchpin of which was the spreading of false and misleading information into the marketplace that was intended to destroy Fairfax so as to create immense profits for the short-sellers. As large and well-known financial institutions recently have experienced similar problems of rumor-mongering and misinformation by short-sellers, we are thankful that these illegal practices are now attracting additional needed attention from regulators and prosecutors.

The adoption of Exchange Act Rule 10b-21 and the announcement by the Commission and SROs of enhanced examinations of market participants to root out the spread of false and misleading information into the markets are critical steps in addressing problems in the current volatile market environment. However, these efforts will only have lasting impact if market participants learn that such illegal conduct will be vigorously investigated and appropriately punished by the Commission and criminal prosecutors. It is imperative that the Commission make this one of its highest enforcement priorities.

Increase Transparency and Require Parity in Disclosures

One of the important ways in which misconduct can be deterred, and uncovered, is through increased transparency in the public markets. Enhanced transparency has long been a hallmark of the U.S. markets and public companies such as Fairfax are subject to

broad and sometimes onerous disclosure requirements that benefit shareholders and help ensure orderly markets. Other market participants as well should be required to make disclosure of important information which is relevant to the operation of fair and orderly markets and should not be permitted to conceal selected portions of their market activity.

We therefore - as filers of Form 13-F ourselves - support the Commission's temporary order requiring reporting of short positions. However, we feel strongly that it does not go far enough. We believe that orderly markets require a permanent solution that helps ensure a fair, even-handed and rational approach to disclosure by investment managers. We encourage the Commission to update the disclosure requirements of Form 13-F to provide for timely public disclosure of both long and short and short-equivalent positions by reporting persons and entities. This public disclosure is crucial to providing issuers with the full complement of information necessary for them to understand their constituents and to better understand and identify those parties with a direct incentive to disseminate the false information discussed above.

We have long believed that the lack of parity between public disclosure of long and short positions under the securities laws was a critical flaw in even-handed disclosure requirements. The current disclosure system not only serves to conceal short positions taken by large money managers and hedge funds, but also makes even the long position disclosures misleading to investors because many managers will hold a token long position in stocks that they are primarily short. We believe that the Commission's temporary rule takes an important step, and we encourage the Commission to adopt a permanent rule that provides for disclosure of both long and short positions in a frequent (certainly more than once a quarter) and timely manner, by all managers who are currently required to file Forms 13-F. (See also Letter from U.S. Chamber of Commerce to SEC, September 13, 2007 re: Release No. 34-56213; File No. S7-19-07.)

The arguments by those who oppose any public disclosure of short positions simply reflect the self-interest of parties who wish to preserve the special status that is accorded to short-sellers under current disclosure rules. An investment strategy that involves short-selling is no more "proprietary" than a strategy that involves the taking of long positions, yet one set of positions is reported while the other is concealed. Short positions represent a direct participation in the equity markets and the important purposes that are served by the required disclosure of long equity positions in a security also support the disclosure of short positions. In Fairfax's view, there should not be different disclosure rules on the long and short side: there should be parity.

We advocate rational and logical disclosure rules that provide meaningful, clear and useful information to regulators, issuers, shareholders and the market as a whole. Imposing an inconsistent patchwork of disclosure rules will only serve to exacerbate the problem, by providing incomplete and misleading information to the marketplace.

No one disputes that short-selling is a valid investment activity. Fairfax regularly engages in short-selling for investment purposes, and we stand ready to disclose our short positions just as we disclose our long positions on Form 13-F.

Strengthen Regulation SHO

Fairfax supports the Commission's continuing efforts to strengthen Regulation SHO as part of the effort to ensure that market participants deliver securities in a timely manner and that short-sellers are not permitted to sell non-existent securities into the market to the detriment of public companies and their shareholders. The elimination of the options market maker exception to Regulation SHO will close a loophole that provided a mechanism for the circumvention of the delivery requirements by some market participants. We also believe that the requirement of a mandatory pre-borrow of certain securities is a significant but insufficient first step in the necessary overhaul of short-selling in our public markets. We are reviewing the interim final temporary rule and request for comments published on October 15, 2008, and intend to provide detailed comments to that rule. In response to the emergency order issued on September 17, 2008 (No. 34-58572) temporarily amending Regulation SHO, Fairfax makes these comments:

- Elimination of the Options Market Maker Exception -- In the prior version of Regulation SHO, options market makers were permitted to engage in "naked" short-selling so long as it was done in connection with hedging options the market maker was writing or other market-making activity. This amounted to an anomalous loophole in Regulation SHO, which permitted options market makers to engage in "naked" short-selling when their customers were prohibited from doing so. Also, as noted above, this loophole provided a mechanism, exploited by some market participants, to continue to sell non-existent securities into the market, thereby carrying on the abusive activity which Regulation SHO was implemented to prohibit. This loophole has resulted in continuing persistent failures to deliver in many publicly-traded securities. We strongly support the elimination of the options market maker exception to Regulation SHO.
- "T+3" Delivery Requirement -- The Commission has adopted, on an interim final basis, a new rule requiring that short-sellers and their broker-dealers deliver all securities they have sold into the markets by three days after the trade date, or "T+3". If the securities are not delivered in T+3, the new rule requires that the broker-dealer is required to "immediately close out the fail to deliver position by borrowing or purchasing securities of like kind and quantity." We strongly support the implementation of this rule and encourage the Commission to enforce it vigorously and to make it clear that the close-out requirement is mandatory and that failing trades must be immediately closed out. We also strongly encourage the Commission to impose a clear and significant penalty for failure to comply with the close-out requirement.

- Partial Pre-Borrow Requirement -- In the event a short sale violates the T+3 and close out requirements described above, then for as long as those securities fail to deliver, any broker-dealer acting on the short seller's behalf will be prohibited from further short sales in the same security for any customer unless the shares are not only located but also pre-borrowed. We strongly support the Commission's imposition of a pre-borrow requirement for securities where there are problematic failures to deliver those securities in a timely manner.

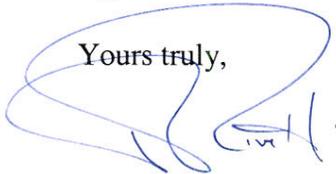
We do, however, have some concerns with this pre-borrow requirement as currently implemented because it will require each broker-dealer to maintain a continually-changing list of securities for which a pre-borrow is required for their customers at any given moment. That list will be different for each broker-dealer, thus opening up the likelihood of short-sellers "shopping" among broker-dealers to find one where no pre-borrow is required for a particular security. This dealer-by-dealer list will also make it substantially more difficult for the Commission and the exchanges to monitor compliance with the pre-borrow rule across the markets.

We believe that the Commission should consider altering the new rule to require a pre-borrow on an industry-wide (rather than dealer-by-dealer) basis for securities identified on the Threshold lists, as such securities are clearly suffering substantial failures-to-deliver and all market participants have quick and easy access to such lists. We believe that the implementation and enforcement of such a rule would be far easier and would result in a clearer regulatory picture of problem areas.

Impelled by these difficult times in the financial markets and the economy, the Commission has taken important steps to address the acknowledged problem of market manipulation by certain short-sellers. Fairfax hopes that the Commission uses this opportunity to implement – and, where necessary, enforce – on a permanent basis an enhanced disclosure and regulatory system that will bolster the faith and trust of all market participants in our capital markets.

Thank you again for your time, effort and commitment to improve this important regulation.

Yours truly,

A handwritten signature in blue ink, appearing to read "Paul Rivett", is written over the text "Yours truly,".

Paul Rivett
Vice President and
Chief Legal Officer