

# Enhancing Short Sale Disclosure



The Securities and Exchange Commission proposed **new Rule 13f-2 and amendments to Regulation SHO and CAT to increase market transparency regarding short selling**. Under the proposed changes, market participants would be required to collect and submit certain short sale-related data to the SEC on a monthly basis. The Commission then would make aggregate data about large short positions, including daily short sale activity data, available to the public for each individual security.

The proposed changes would fulfill the Congress's mandate under Section 13(f)(2) of the Securities Exchange Act, added under Section 929X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to prescribe rules to make certain short sale data publicly available.

## Background

Proposed Rule 13f-2 and the related proposed Form SHO are designed to meet Congress's mandate and provide greater market transparency by increasing the public availability of short sale related data. The data collected would be useful to the Commission in reconstructing significant market events and identifying potentially abusive trading practices, including short squeezes.

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## How This Rule Applies

Proposed Rule 13f-2 and Form SHO would require that institutional money managers file on the Commission's EDGAR system, on a monthly basis, certain short sale related data, some of which would be aggregated and made public. Certain data, including the identities of such managers and individual short positions, would remain confidential.

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## What's Required

The proposed rule would require institutional money managers to file confidential Proposed Form SHO with the Commission via EDGAR, within 14 calendar days after the end of each calendar month, with regard to each equity security and all accounts over which the manager meets or exceeds either of the following thresholds:

- For any equity security of an issuer that is registered pursuant to Section 12 of the Exchange Act or for which the issuer is required to file reports pursuant to section 15(d) of the Exchange Act in which the manager meets or exceeds either (1) a gross short position in the equity security with a US dollar value of \$10 million or

more at the close of any settlement date during the calendar month, or (2) a monthly average gross short position as a percentage of shares outstanding in the equity security of 2.5 percent or more; or

- For any equity security of an issuer that is not a reporting company issuer as described above in which the manager meets or exceeds a gross short position in the equity security with a US dollar value of \$500,000 or more at the close of any settlement date during the calendar month.

The information a manager would report includes:

- The name of the eligible security;
- End of month gross short position information;
- Daily trading activity that affects a manager's reported gross short position for each settlement date during the calendar month reporting period.

The Commission would publish, based on information reported in Proposed Form SHO:

- The issuer's name and other identifying information related to the issuer;
- The aggregated gross short position across all reporting managers in the reported security at the close of the last settlement date of the calendar month of the reporting period, as well as the corresponding dollar value of this reported gross short position;
- The percentage of the reported aggregate gross short position that is reported as being fully hedged, partially hedged, or not hedged; and
- For each reported settlement date during the calendar month reporting period, the "net" activity in the reported security, as aggregated across all reporting managers, within 14 business days of the calendar-month-end reporting deadline.

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## **Amendments to Regulation SHO and CAT**

To supplement the short sale data available to regulators, the Commission proposed a new provision of Regulation SHO under the Exchange Act — Proposed Rule 205 — as well as amendments to the consolidated audit trail plan created pursuant to the requirements of Rule 613 of the Exchange Act. Collectively, these amendments would require broker-dealers to collect and submit additional data on purchases to cover short sales as well as assertion of Regulation SHO's bona fide market making exceptions. The data resulting from these amendments would provide the Commission with greater visibility into market activity related to short selling, thus aiding it in reconstructing market events and identifying potentially abusive trading practices.

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### ***Additional Information:***

In light of Proposed Rule 13f-2, the Commission reopened the comment period for Proposed Exchange Act Rule 10c-1. The public comment period for both today's proposals and Proposed Exchange Act Rule 10c-1 will remain open for 60 days following publication of the proposing release on the SEC's website or 30 days following publication of the proposing release in the Federal Register, whichever period is longer.