Managed Funds Association

The Voice of the Global Alternative Investment Industry

Washington, D.C. | New York | Brussels | London

December 1, 2023

Secretariat-General
Unit SG. A.2.
200 Rue de la Loi
1049
Brussels
Belgium

Re: Call for Evidence re. Rationalization of Reporting Requirements

Dear Sir/Madam,

Managed Funds Association ("**MFA**")[1] commends the European Commission ("**EC**") for announcing a series of measures and actions aiming to improve the competitive position of European Union ("**EU**") businesses in global markets.[2] MFA members include many European and U.S. alternative asset managers, who invest heavily in European markets, including in EU listed shares and EU sovereign debt, and who provide valuable trading flows and liquidity to EU trading venues and counterparties. We appreciate the EC's commitment to reevaluating, rationalizing, and simplifying reporting requirements for companies.

MFA member firms utilise short selling among other tools in order to manage risk and maximise returns for fund beneficiaries, including institutional investors such as pensions, endowments, and pensions. Short selling is a powerful tool that benefits investors and markets in a number of ways, including by:

- Improving efficiency of price formation;

- Improving market liquidity and reducing volatility;

[1] MFA, based in Washington, DC, New York, Brussels, and London, represents the global alternative asset management industry. MFA's mission is to advance the ability of alternative asset managers to raise capital, invest, and generate returns for their beneficiaries. MFA advocates on behalf of its membership and convenes stakeholders to address global regulatory, operational, and business issues. MFA has more than 170 member firms, including traditional hedge funds, credit funds, and crossover funds, that collectively manage nearly $2.2 trillion across a diverse group of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time.

[2] *See* https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13990-Administrative-burden-rationalisation-of-reporting-requirements_en.

- Allocating capital more efficiently and unlocking capital investment;
- Detecting corporate fraud;
- Promoting environmental, social, and governance ("ESG") goals; and
- Reducing risk of market bubbles.[3]

Accordingly, MFA believes it is critical that any reforms to the current short selling rules in the EU ("**EU Short Selling Regulations**") do not hinder the ability of market participants to engage in short selling either directly (through the expansion of emergency powers to ban short selling) or indirectly (through requirements that make short selling less attractive and efficient, such as a lowering of the net short position public disclosure threshold). Targeted modifications to EU Short Selling Regulations can reinforce the efficiency of EU capital markets and unlock greater investment across the EU.[4]

As discussed further below, MFA recommends the following changes to EU Short Selling Regulations:

- Recalibrate public disclosure
    - MFA encourages the EU to move toward aggregated, anonymised reporting of net short positions, as the existing individual public reporting mandate above the 0.5 percent threshold has been shown to cause herding behavior and volatility in EU markets.
- Streamline position reporting
    - MFA strongly supports the creation of a centralised portal for reporting net short positions, and this portal should accommodate automated reporting, for example in XML format.
    - MFA emphasizes the need for a common understanding on the calculation of issued share capital (the denominator in the calculation of net short positions), and this could be accomplished either through creation of a single data source or ESMA guidance on what constitutes a reliable third-party source.

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[3] These benefits can be explored further in MFA's Short Selling White Paper (available at: https://www.managedfunds.org/wp-content/uploads/2022/04/Short-Selling-White-Paper.pdf).

[4] *See* MFA Letter to His Majesty's Treasury's Consultation on the UK's Short Selling Regulation ("**SSR**") Review in the context of Sovereign Debt and Credit Default Swaps (Aug. 7, 2023), available at: https://www.managedfunds.org/wp-content/uploads/2023/08/MFA-Response-to-HMT-Consultation-on-Sovereign-Debt-and-Credit-Default-Swaps-7.8.2023-FINAL-1.pdf (recommending targeted modifications to public disclosure and position reporting requirements to reinforce the efficiency of capital markets and unlock greater investment across the UK).

- <u>Avoid short sale bans</u>
    - MFA strongly recommends against the use of short sale bans. Empirical evidence suggests bans harm a wide range of investors through reduced liquidity, higher transaction costs, and distortion of price discovery.

I. Individual Firm Public Disclosure of Short Positions

The benefits of short selling are constrained by the existing EU regulatory framework. Short selling, as a tool, is not realising its full potential in the market and consequently, the ability of firms to more effectively manage risk and seek returns for institutional investors like pension funds, university endowments, and charitable foundations has limitations. Within the current framework, there is one fundamental shortcoming present which can have negative effects on markets and investors: individual firm public disclosure of net short positions ("**IFPD**"). IFPD has multiple negative effects on capital markets, including:

- **Chilling effect:** IFPD has a chilling effect on short selling which reduces the efficiency of price discovery in the market. Firms are understandably reluctant for the market to know their short positions for risk of divulging strategies or becoming susceptible to short squeezes and issuer retaliation. Evidence shows that there is clustering below the IFPD threshold.[5]

- **Herding behaviour:** When firms do execute short sales above the IFPD threshold, this causes herding behaviour in the market. Other market participants who have not conducted careful, extensive research on an issuer, will frequently copycat the disclosing firm's short position. To that end, herding behaviour risks exaggerating price adjustments and exacerbating market volatility.[6]

MFA supports the adoption of a recalibrated short sale disclosure framework. We recommend a move away from IFPD and instead toward publicly disclosing the aggregate net short positions on an issuer-by-issuer basis utilising the private position reporting information received by regulators. This policy approach of aggregated public disclosure ("**APD**") would better promote price discovery and market efficiency yet still provide the market with meaningful data transparency. We note that in the United States, the SEC recently finalised a short selling rule that rejects IFPD in favor of an APD model.[7]

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[5] In the Appendix to our response to this Call for Evidence, we include a bibliography illustrating the strong body of empirical evidence on the shortcomings of IFPD. *See, in particular*, Copenhagen Economics' white paper: Market Impact of Short Sale Position Disclosure, available at: https://copenhageneconomics.com/wp-content/uploads/2021/12/disclosure-requirement-for-short-positions.pdf (highlighting that there are clear indications that public disclosures of net short positions cause herding behaviour, in which investors copy each other's short positions, which leads to increased volatility).

[6] *Id.*

[7] *See* Short Position and Short Activity Reporting by Institutional Investment Managers, 88 Fed. Reg. 75100 (Nov. 1, 2023), available at: https://www.govinfo.gov/content/pkg/FR-2023-11-01/pdf/2023-23050.pdf.

II. Address Operational Challenges Related to Reporting to Regulators

While addressing public disclosure would have the greatest positive impact on the market and investors, there are two additional areas where the EU Short Selling Regulations could be improved to enhance the competitiveness of its global market.

MFA fully supports reporting short positions to the regulator. This ensures that authorities have clear oversight of the market and can address any concerns related to issuers or market manipulation. However, operational challenges make this system costly and burdensome. The data and systems for reporting could be improved to deliver greater efficiency to the market. The current operational challenges associated with the reporting system are not only costly but also burdensome. MFA strongly supports the creation of a centralised portal for reporting net short positions, and this portal should accommodate automated reporting, for example in XML format. We also urge policymakers to conduct a thorough cost-benefit analysis on the very low regulatory reporting thresholds that are currently in place in the EU.

MFA members routinely experience difficulties in identifying outstanding share capital figures and, where such data is available, there are frequent inconsistencies between different sources. For instance, the values for total share capital provided by multiple market data providers may differ from one other. Further, market data provider figures may also disagree with values published by issuers, by exchanges, and by public registers. This poses a fundamental challenge to MFA members' ability to comply with the net short position notification obligations on a timely and accurate basis, and members are required to invest significant internal and external resources in calculating and making net short position reports as a result. Some members have expressed that they often consult three or more sources to confirm shares outstanding, and sometimes are forced to resort to issuer press releases, corporate action notifications, prospectuses, and other similar documents. Even after such investigation, it is not always apparent what the correct figure for issued share capital is.

Our members have also experienced difficulties with member states' net short position reporting portals which, in some cases, hardwire certain outstanding share capital data for issuers that is inconsistent with publicly available data relating to those issuers, making it impossible to accurately disclose net short positions. Such issues could be solved by the introduction of a centralised system for the disclosure of total outstanding share capital by issuers. Alternatively, ESMA could provide clear guidance to market participants and competent authorities on what type of data source for issued share capital could be unambiguously relied upon for purposes of the SSR notification/publication obligations. Stronger regulatory attention on issuers' compliance with their own disclosure obligations in this regard is also urgently required.

Furthermore, we strongly support the introduction of a centralised notification and publication system for position holders to communicate their net short positions. Currently, individual EU jurisdictions have individual submission portals/email submission requirements. The registration requirements for online reporting can be difficult and may require personal data from employees (*e.g.*, Finland links the online reporting portal to individual phone numbers for a multi-step login process). Registration for online reporting also can be very complicated with little to no direction from help

services. Reporting small bits of data to individual EU jurisdictions is simply a huge expenditure of time and resources and we believe an unnecessary burden on firms. One common online portal for EU filings would make a huge difference. This new centralised notification system should support the automated submission of data in standardised formats (such as XML), which would remove the significant human resources requirement that is currently associated with net short position reporting under the SSR. A centralised system that also contains an up-to-date data set for the exempted shares list, and for total issued share capital for in-scope issuers would be likely to significantly improve data quality.

III. Avoid Short Sale Bans

Regulatory intervention in the form of short sale bans has historically led to more harm than good for global markets and market participants. We encourage regulators to provide as much *ex ante* detail and clarity on the requirements and capabilities related to short sale bans to help inform operational planning. A general playbook setting out clearly the rules that would apply in any short sale ban situation would greatly help market participants be fully prepared for these unlikely scenarios. The need for up-front clarity is not theoretical. It has been illustrated by real experiences during short sale bans in overseas jurisdictions.

MFA notes the significant difficulties that were experienced by its members as a result of the imposition of short-term and long-term short selling bans in some EU Member States during the first wave of the Covid-19 pandemic. MFA members invested significant time and resources in ensuring that they continued to meet their regulatory obligations in the face of significant uncertainty under these bans, and that relevant competent authorities were provided with timely and accurate data regarding net short positions.

In March 2020 specifically, research from the University of Hamburg, as published in *The 2020 European Short-Selling Ban and the Effects on Market Quality* (2020),[8] found evidence that those countries which implemented bans experienced lower market liquidity, lower trading volume, and wider bid-ask spreads compared to those European countries which did not implement bans. In addition, this study found that the bans did nothing to prevent price declines or reduce volatility and conclude that the policy measures harmed rather than protected investors.

We therefore recommend against the use of short sale bans given that the empirical evidence suggests bans harm a wide range of investors through reduced liquidity and higher transaction costs. However, if the European Commission determines that the authority to deploy short sale bans should remain, we encourage regulators to provide more upfront clarity on the requirements and capabilities related to short sale bans which would greatly help market participants be fully prepared for unlikely scenarios.

IV. Conclusion

MFA believes that these policies can act as an important building-block toward the "rationalisation of reporting requirements" that the EC has set out to achieve. These targeted

[8] Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3894258.

modifications would go a long way toward enhancing the attractiveness and competitiveness of the EU's capital markets for alternative asset managers and institutional investors. We remain a resource to policymakers throughout this regulatory reform process.

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MFA would be happy to elaborate on the points contained in this letter, should you wish to engage in further conversation. If you have any questions regarding this letter, or if we can provide more information, please do not hesitate to contact Andrew Malin, Manager, International Government Affairs, or the undersigned, at (202) 730-2600.

Respectfully submitted,

\S\ Jillien Flores

Jillien Flores

Executive Vice President and Managing Director,
Head of Global Government Affairs

Appendix – Literature review on short sale disclosure

Battalio, Robert, Mehran, and Schultz. Market Declines: What Is Accomplished by Banning Short-Selling (2012). Federal Reserve Bank of New York. Available at: https://www.newyorkfed.org/medialibrary/media/research/current_issues/ci18-5.pdf.

In 2008, U.S. regulators banned the short-selling of financial stocks, fearing that the practice was helping to drive the steep drop in stock prices during the crisis. However, a new look at the effects of such restrictions challenges the notion that short sales exacerbate market downturns in this way. The 2008 ban on short sales failed to slow the decline in the price of financial stocks; in fact, prices fell markedly over the two weeks in which the ban was in effect and stabilized once it was lifted. Similarly, following the downgrade of the U.S. sovereign credit rating in 2011—another notable period of market stress—stocks subject to short-selling restrictions performed worse than stocks free of such restraints.

Bernal, Oscar and Herinckx, Astrid and Szafarz, Ariane, Which Short-Selling Regulation is the Least Damaging to Market Efficiency? Evidence from Europe (January 2014). International Review of Law and Economics, Vol. 37, 244-256, 2014, Available at SSRN: https://ssrn.com/abstract=2387612

Exploiting cross-sectional and time-series variations in European regulations during the July 2008 – June 2009 period, the authors show that: 1) Prohibition on covered short selling raises bid-ask spread and reduces trading volume, 2) Prohibition on naked short selling raises both volatility and bid-ask spread, 3) Disclosure requirements raise volatility and reduce trading volume, and 4) No regulation is effective against price decline. Overall, all short-sale regulations harm market efficiency. However, naked short-selling prohibition is the only regulation that leaves volumes unchanged while addressing the failure to deliver. Therefore, the paper argues that this is the least damaging to market efficiency.

Boehmer, Ekkehart, and Wu, Julie. Short Selling and the Price Discovery Process (2012). Review of Financial Studies. 26, (2), 287-322. Research Collection Lee Kong Chian School Of Business. Available at: https://ink.library.smu.edu.sg/cgi/viewcontent.cgi?article=5687&context=lkcsb_research.

This research shows that stock prices are more accurate when short sellers are more active. First, in a large panel of NYSE-listed stocks, intraday informational efficiency of prices improves with greater shorting flow. Second, at monthly and annual horizons, more shorting flow accelerates the incorporation of public information into prices. Third, greater shorting flow reduces post-earnings announcement drift for negative earnings surprises. Fourth, short sellers change their trading around extreme return events in a way that aids price discovery and reduces divergence from fundamental values. These results are robust to various econometric specifications and their magnitude is economically meaningful.

Bris, Arturo, Goetzmann, and Zhu. Efficiency and the Bear: Short Sales and Markets Around the World (2007). Available at: https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1540-6261.2007.01230.x.

This paper analyzes cross-sectional and time-series information from 46 equity markets around the world to consider whether short sales restrictions affect the efficiency of the market and the distributional characteristics of returns to individual stocks and market indices. The research finds some evidence that prices incorporate negative information faster in countries where short sales are allowed and practiced. A common conjecture by regulators is that short sales restrictions can reduce the relative

severity of a market panic. The authors find strong evidence that in markets where short selling is either prohibited or not practiced, market returns display significantly less negative skewness.

Deng, Sheran, Does Disclosure Deter Short Selling with Noisy Information (October 27, 2020). Available at SSRN: https://ssrn.com/abstract=3720206 or http://dx.doi.org/10.2139/ssrn.3720206

This paper studies the impact of disclosure on short selling. Using a confidential dataset on shorts on stocks traded in the Dutch stock market including both short positions large enough to trigger public disclosure and positions not large enough, the authors find that the quality of shorts increases discontinuously at the reporting threshold. The paper shows strong evidence that short sellers increase security selection intensity when their short positions approach the reporting threshold. The authors rule out several alternative explanations including the explanation that positions reaching the reporting threshold move the market, the explanation that large short sellers have a higher quality of shorts, or the explanation that returns are time-varying and change discontinuously when positions reach the disclosure threshold. These results suggest transparency has an effect of disincentivizing shorting on noisy information**.**

**Duong, Truong X. and Huszar, Zsuzsa R. and Huszar, Zsuzsa R. and Yamada, Takeshi, The Costs and Benefits of Short Sale Disclosure (October 29, 2014). Journal of Banking and Finance, Volume 53, Pages 124-139, 2015, Available at
SSRN: https://ssrn.com/abstract=2297680 or http://dx.doi.org/10.2139/ssrn.2297680**

This study examines the impact of a market-wide mandatory disclosure policy on short selling on the Tokyo Stock Exchange. It finds that average short selling slightly declined while investors' shorting strategies changed significantly in response to the disclosure. Previously highly shorted stocks were shorted less and shorting activity shifted toward smaller and riskier stocks, suggesting that retail investors became the more likely short sellers. Short sales became more trend-chasing, prices became less informative, and short-term price volatility increased. Overall, the pricing efficiency benefits of short selling declined after the mandatory disclosure policy.

Heater, John C. and Liu, Ye and Tan, Qin and Zhang, Frank, Does Mandatory Short Selling Disclosure Lead to Investor Herding Behavior? (November 3, 2022). ***Available at SSRN: https://ssrn.com/abstract=3923046 or http://dx.doi.org/10.2139/ssrn.3923046***

Prior literature documents that short sale activity clusters around mandated short sale position disclosures. This paper investigates two competing, yet non-mutually exclusive, hypotheses for this finding: herding- versus information-based trading. First, using an entropy-balanced matched sample of stocks, it finds that future firm-level short interest exhibits a significantly smaller reversal for stocks that had short-sale disclosures than for non-disclosure stocks. It also finds that the cumulative stock returns after the disclosure are lower for disclosure stocks relative to non-disclosure stocks in the short-run but recover over time. The recovery in stock prices for disclosure stocks is consistent with the initial excessive short-selling pressure abating and fundamental investors buying the dip, a result consistent with herding-based trading but inconsistent with information-based trading. Second, the paper explores the role of new information about firm fundamentals on short selling activities and find that the degree of short-sale disclosure clustering is similar across the pre-earnings announcement, post-earnings

announcement, and no-news periods, regardless of whether the earnings news is good or bad, suggesting that information shocks are not driving short-sale disclosure clustering. Overall, the evidence is consistent with short sellers herding into short positions after observing short-sale disclosures.

Jank, S., Roling, C. & Smajlbegovic, E. (2021) Flying under the radar: The effects of short-sale disclosure rules on investor behavior and stock prices. Journal of Financial Economics 139, no. 1 (2021): 209-233.

This research documents that a sizable fraction of investors are reluctant to disclose their short positions publicly. Just below the disclosure threshold, positions accumulate, exhibit an abnormally low probability of increasing, and remain unchanged for an abnormally long time. This reluctance to cross the publication threshold represents a short-sale constraint for a large fraction of investors. Consistent with the overpricing hypothesis, when the short-sale constraint imposed by the disclosure threshold is potentially binding, stocks exhibit negative abnormal returns of 1.0-1.4% on a monthly basis. Different placebo tests verify that the short-sale constraint originates from the disclosure rule. Overall, these findings suggest that the investors' reluctant behavior in response to the short-sale transparency regulation imposes negative externalities on stock market efficiency.

Jones, C.M., Reed, A.V. & Waller, W. (2016) Revealing shorts: An examination of large short position disclosures. The Review of Financial Studies, 29(12), pp.3278-3320.

By 2012, all European Union countries began requiring the disclosure of large short positions. This regime change reduced short interest, bid-ask spreads, and the informativeness of prices. After specific disclosures, short-run abnormal returns are insignificantly negative, but 90-day cumulative abnormal returns are a statistically significant –5.23%. We find disclosures are likely to be followed by other disclosures, especially when the initial discloser is large or centrally located, but there is no subsequent increase in short interest, and prices do not subsequently reverse. These results indicate that large short sellers are well-informed, and that disclosures are not being used to coordinate manipulative attacks.

Lunde, Jensen, Hauschultz and Tizik, Market Impact of Short Sale Position Disclosures (January 2018). Copenhagen Economics, Available at: http://www.copenhageneconomics.com/dyn/resources/Publication/publicationPDF/3/573/1626345387/market-impact-of-short-sale-position-disclosures.pdf

Consistent with earlier findings by the European Securities and Markets Authority (ESMA) and the German central bank (Bundesbank), this regression analysis reveals clear indications that public disclosures in the EU and UK cause herding behaviour, in which investors copy each other's short positions. Following a required public disclosure for a given stock, the research finds an increase in daily volatility of 1.5 percent. The paper finds indications that the higher volatility is a result of an exaggerated downward price adjustment, as it finds that a required public disclosure leads to a reduction in daily returns of 0.06 percent.

Dr. Lunde, Jensen, Dr. Hauschultz, Tizik, Market Impact of Short Sale Position Disclosures (2021). Copenhagen Economics. Available at: https://www.copenhageneconomics.com/dyn/resources/Publication/publicationPDF/3/573/1626345387/market-impact-of-short-sale-position-disclosures.pdf.

In line with academic papers, as well as research papers by major European economic institutions, Copenhagen Economics empirically identified that public disclosure of short selling is likely to impair price discovery for two main reasons: 1) it deters informed investors from shorting assets, thereby withholding information from the price discovery process and 2) it leads to herding behaviour, which is associated with a risk of exaggerated price adjustments and therefore higher volatility.

Saffi, Pedro, and Sigurdsson, Kari. *The Review of Financial Studies*, Volume 24, Issue 3, March 2011, Pages 821–852. Available at: https://academic.oup.com/rfs/article-abstract/24/3/821/1590469?redirectedFrom=fulltext.

This article presents a study of how stock price efficiency and return distributions are affected by short-sale constraints. The study is based on a global dataset, from 2005 to 2008, that includes more than 12,600 stocks from 26 countries. It presents two main findings. First, lending supply has a significant impact on efficiency. Stocks with higher short-sale constraints, measured as low lending supply, have lower price efficiency. Second, relaxing short-sales constraints is not associated with an increase in either price instability or the occurrence of extreme negative returns.

Siciliano, Gianfranco, and Ventoruzzo, Marco. Banning Cassandra from the Market? An Empirical Analysis of Short-Selling Bans during the Covid-19 Crisis (2020). European Company and Financial Law Review. Available at: https://pennstate.pure.elsevier.com/en/publications/banning-cassandra-from-the-market-an-empirical-analysis-of-short-.

During the recent COVID-19 pandemic crisis, stock markets around the world witnessed an abrupt decline in security prices and an unprecedented increase in security volatility. In response to a week of financial turmoil on the main European stock markets, some market regulators in Europe, including France, Austria, Italy, Spain, Greece, and Belgium, passed temporary short-selling bans in an attempt to stop downward speculative pressures on the equity market and stabilize and maintain investors' confidence. This paper examines the effects of these short-selling bans on market quality during the recent pandemic caused by the spread of COVID-19. The results suggest that during the crisis, banned stocks had higher information asymmetry, lower liquidity, and lower abnormal returns compared with non-banned stocks. These findings confirm prior theoretical arguments and empirical evidence in other settings that short-selling bans are not effective in stabilizing financial markets during periods of heightened uncertainty. In contrast, they appear to undermine the policy goals market regulators intended to promote.

Whitemore, Travis. An Academic View: The Effectiveness of Short-Selling Bans. Securities Finance Research, State Street Associates (2020). Available at: https://static.ecestaticos.com/file/ad5/2f1/824/ad52f18246a3e65f7edd400bf85f9d8f.pdf.

During times of financial turmoil, regulators will commonly try to stabilize market prices by implementing short-selling bans and restrictions. Academic findings and empirical evidence suggest that these measures have little to no effectiveness in preventing price declines, instead resulting in a degradation of market quality at a time when it is most crucial. Short-selling bans have been imposed throughout Europe and Asia in response to the economic fallout from COVID-19, but it is unlikely that

similar bans will be put in place by US regulators given the limited effectiveness that these measures have.

U.S. SEC (2014). Short sale position and transaction reporting: As required by Section 417 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Technical report, U.S. Securities and Exchange Commission.

The Division studied the feasibility, benefits, and costs of a real-time short position reporting regime ("Real-Time Short Position Reporting") to the public or only to FINRA and the Commission and the feasibility, benefits, and costs of adding new, short sale-related marks to the Consolidated Tape ("Transaction Marking") in a voluntary pilot program ("Transaction Marking Pilot"). To assess the feasibility, benefits, and costs, the Division compared Real-Time Short Position Reporting and Transaction Marking to a baseline that includes currently available data as well as potential data from the prospective Consolidated Audit Trail ("CAT"). The Division concludes that none of these alternatives is likely to be cost-effective when compared to the baseline.

Short Selling's Positive Impact on Markets and the Consequences of Short-Sale Restrictions. Committee on Capital Markets Regulation. Available at: https://www.capmktsreg.org/wp-content/uploads/2018/09/CCMR-Statement-on-Short-Selling.pdf.

The academic evidence on the effects of short selling on capital markets is overwhelmingly positive. Short selling improves the efficiency of security prices, increases liquidity, and positively impacts corporate governance. Historical bans and restrictions on short selling have proved to negate many of these benefits, to the detriment of overall market quality. As policymakers evaluate proposals to mandate disclosure of individual short selling activity, the potential unintended consequences on market quality must be carefully considered.

An Introduction to Short Selling (2021). Managed Funds Association. Available at: https://www.managedfunds.org/research/an-introduction-to-short-selling/.

Short selling contributes significantly and demonstrably to healthy capital markets, which ultimately profits pension beneficiaries and supports job creation. Short sellers support reporting to the SEC and the disclosure of aggregate short positions in the market. Short sellers do not, however, want public reporting of individual investor positions. As starkly demonstrated by the Wirecard collapse, government efforts to restrain or ban short selling may actually shield the exposure of fraud and, in all cases, such intervention leads to deterioration of market quality. Changes to rules that would require individual investors to disclose short positions would lead to the same results, hurting investors and ultimately the competitiveness of U.S. markets.