

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Estimates 22-23 October 2008

Question: sbt 25

Topic: Short Selling - General

Hansard Page: Written

Senator Bushby asked:

1. How much of the market decline earlier in the year do you think could be attributed to short selling?
2. Short selling as a practice was claimed for driving down share prices earlier this year – leading to many margin calls. How widespread is the use of margin lending?
3. Do you consider there to be a conflict of interest whereby the ASX regulates the share market at the same time as profiting from it?
4. Given that the ASX profits from it, is it in the ASX's interests that short selling be encouraged?
5. If short selling leads to significant losses on the market, is it appropriate that the ASX should be both regulating this activity and profiting from this activity?
6. Superannuation funds have been lending their stocks to short sellers, leading to their stocks held losing value – is there greater need for regulation to protect retirees and their savings?
7. Considering that these regulatory issues relating to the disclosure of short selling have been identified as early as February this year by the financial press – why did it take a financial crisis before the Government acted?
8. Did the ban on short selling stop the share market from going down?
9. How will the proposed Federal takeover of Financial Services regulation make the extent of margin lending more transparent to investors?

Answer:

1. It is not possible to estimate how much of the market decline was attributed to short selling.
2. Data reported by the Reserve Bank of Australia indicates that as at June 2008 the total value of margin loans in Australia equalled approximately \$31.9 billion. The number of margin loan client accounts equalled 206,000.
3. As a market licensee, the ASX has a statutory obligation requiring it to do all things necessary to ensure that the financial market it operates is fair, orderly and transparent. The ASX must also have adequate arrangements for supervising the market, including managing conflicts.

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4. It is not in the interests of any financial market to promote trading practices that may lead to a loss of confidence in the integrity of the market.
5. The ASX has a limited role in relation to the regulation of short selling. This role involved ASX maintaining an approved list of securities that could be sold by way of a naked short sale and collecting and publishing information about such short sales.

On 19 September 2008, the ASX removed all securities from its approved list. The Government has introduced legislation into Parliament prohibiting all naked short sales subject to an ASIC exemption power. This would remove any ASX role in relation to regulating short selling. However, the ASX may be required under the legislation to disclose to the public any information it receives on short selling.

6. The Australian Prudential Regulation Authority examined the practice of stock lending by superannuation funds in the past and did not consider it to pose a prudential risk to superannuation funds or their investments.
7. The Government commenced work on regulatory issues associated with short selling in February this year, after a gap in the law was left open by the former Government for almost seven years.
8. It is not possible to estimate how much of the market decline was attributed to short selling.
9. The Commonwealth Government, as part of the consumer credit regulatory reform, intends to regulate the provision of margin lending and is currently considering the most appropriate form of this regulation. This work is aimed at ensuring there are adequate protections and disclosures in place for individuals who wish to apply for a margin loan.