

# Short Selling and Bank Accounts Bill

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Prohibit short selling; to require disclosure by pension funds and their trustees of records of loans of their shares for the purpose of short selling, and of the fees received in such cases; to require banks and building societies to offer their retail customers current and savings accounts free of any charge for holding the accounts when such accounts are in credit; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Prohibition of short selling**

- (1) It shall be an offence for a person (P) to enter into a transaction that (whether by itself or in conjunction with other transactions) has the effect of—
- (a) creating a net short position in a company listed in the UK;
  - (b) increasing any net short position in a company listed in the UK that P had before the coming into force of this section. 5
- (2) Subsection (1) does not apply to a person acting in the capacity of a market maker.
- (3) A person guilty of an offence under subsection (1) is liable, on summary conviction, to an unlimited fine or 12 months' imprisonment. 10

**2 Disclosure requirements on pension funds and their trustees in relation to short selling**

- (1) Managers and trustees of a pension fund shall publish in the annual accounts of their fund for the financial year ending with 31 March 2009, and any subsequent financial year before the coming into force of this Act, a statement of— 15
- (a) the quantities of shares of the fund that have been lent for the purpose of short selling;
  - (b) the fees received by the fund for lending those shares; and

- (c) the price of the shares at both the beginning and the end of the period during which they were lent.
- (2) A penalty may be imposed by the Financial Services Authority on the managers and trustees of a pension fund who fail to comply with subsection (1) above. 5
- (3) The penalty which may be imposed for a first offence under subsection (2) is a penalty not exceeding £100,000.
- (4) The penalty which may be imposed for a second or subsequent offence under subsection (2) is an unlimited fine.
- 3 Bank and building society accounts of retail customers 10**
- (1) It shall be a requirement on banks and building societies that accept deposits from retail customers that they must offer retail customers –
- (a) at least one current account in respect of which no charge is made for holding the account when it is in credit; and
- (b) at least one savings account in respect of which no charge is made for holding the account when it is in credit, and on which interest is paid to the account holder. 15
- (2) A penalty may be imposed by the Financial Services Authority on a bank or building society which fails to offer accounts in accordance with subsection 1.
- (3) The penalty which may be imposed for a first offence under subsection (2) is a penalty not exceeding £100,000. 20
- (4) The penalty which may be imposed for a second or subsequent offence under subsection (2) is an unlimited fine.
- 4 Interpretation**
- In this Act – 25
- “bank” has the meaning as defined in section 2 of the Banking Act 2009 (c.1);
- “building society” has the meaning as defined in section 119(1) of the Building Societies Act 1986 (c.53);
- “market maker” means an entity that, ordinarily as part of their business, deals as principal in equities, options or derivatives- 30
- (a) to fulfil orders received from clients, in response to a client’s request to trade or to hedge positions arising out of those dealings;
- (b) in a way that ordinarily has the effect of providing liquidity on a regular basis to the market on both bid and offer sides of the market in comparable size. 35
- “net short position” means a net short position which gives rise to an economic exposure to the issued capital of a company, taking account of any form of economic interest in the shares of the company; 40
- “retail customer” means a customer or prospective customer of a bank or building society who is acting for purposes which are outside his trade, business or profession.

**5 Short title, commencement and extent**

- (1) This Act may be cited as the Short Selling and Bank Accounts Act 2009.
- (2) This Act (apart from section 3) shall come into force on the day following the day on which the Act is passed.
- (3) Section 3 shall come into force on such day as the Treasury may by order appoint. 5
- (4) This Act extends to England and Wales, Scotland and Northern Ireland.

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To prohibit short selling; to require disclosure by pension funds and their trustees of records of loans of their shares for the purpose of short selling, and of the fees received in such cases; to require banks and building societies to offer their retail customers current and savings accounts free of any charge for holding the accounts when such accounts are in credit; and for connected purposes.

*Presented by Mr Frank Field,  
supported by Ms Sally Keeble, Mark Fisher,  
Mr Graham Allen, Mr Jim Hood,  
Mr Gordon Prentice, John Mann,  
Mr Peter Kilfoyle, David Taylor, Dr Tony Wright,  
Jim Sheridan and Mr Peter Hain.*

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to be Printed, 19 June 2009.*

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