

ALERTS

France, Spain, Italy and Belgium to Impose Short Sale Restrictions on Financial Companies Effective August 12, 2011; ESMA Issues Statement

August 11, 2011

The European Securities and Markets Authority (“ESMA”), an organization established by the European Union as its securities regulatory authority, said in a public statement today that some authorities in the European Union have decided to impose or extend existing short-selling bans or restrictions in their respective countries due to recent volatility in the European financial markets. ESMA stated, “While short-selling can be a valid trading strategy, when used in combination with spreading false market rumours this is clearly abusive.” It went on to say, “The following countries have today announced or will shortly announce new bans on short-selling or on short positions: Belgium, France, Italy and Spain. Information on these measures can be retrieved from the websites of the relevant competent authorities. These measures will take effect as of 12 August 2011.” By banning, restricting and disclosing short sales, such countries’ regulators are seeking to maintain confidence in their own markets and complement the measures taken by other European Union regulators. **Clients and others who may be affected by the requirements below are encouraged to seek advice from local counsel.**

[Click here to read the ESMA public statement.](#)

France

Effective as of August 12, 2011, the Autorité des Marchés Financiers (“AMF”) has banned the creation of any net short position or the increase of any net short position, including intraday, by any person established or residing in France or in another country, in the “equity shares” or “securities giving access to the capital of” the following financial companies: April Group, Axa, BNP Paribas, CIC, CNP Assurances, Crédit Agricole, Euler Hermès, Natixis, Paris Ré, Scor, and Société Générale. The ban will remain in effect for a period of 15 days but may be extended beyond that date.

[Click here to read the AMF announcement.](#)

Spain

Effective as of August 12, 2011, the Comisión Nacional del Mercado de Valores (“CNMV”) has banned transactions that involve the creation or increase of short positions in certain financial stocks, subject to certain exceptions. The ban will remain in effect for a period of 15 days but may be extended beyond that date.

[Click here to read the CNMV press release](#) (please note that the press release was issued in Spanish only).

Italy

As of 8:00 p.m. EDT, the Commissione Nazionale per le Società e le Borse (“CONSOB”) had not issued a press release relating to short sales of shares listed and traded on the Italian regulated markets. ESMA’s press release is not limited to securities of financial companies, and Italy has not posted the action it is taking on its website. We can only assume by reference to the actions taken by France, Spain and Belgium that Italy’s actions will also relate to shares of financial companies. We urge you to check the CONSOB website to determine the terms of Italy’s actions.

[Click here to access the CONSOB website.](#)

Belgium

Effective as of August 12, 2011, the Financial Services and Markets Authority (“FSMA”) has extended the ban on uncovered transactions (in shares or derivatives) executed on Euronext Brussels to include coverage

with borrowed shares, or “covered shorting.” Accordingly, the FSMA has prohibited the taking of a net economic short position by any means whatsoever, or the extension of such a position to the shares of the following financial companies: Ageas, Dexia, KBC Group and KBC Ancora. Existing net economic short positions do not fall within the scope of the ban, but such positions may not be increased. The existing disclosure obligations remain in force, including for these positions.

[Click here to read the FSMA announcement.](#)

[Click here to read the FSMA’s questions and answers on the short-selling of securities.](#)

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or the author.

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