

Alert

Short-Selling — ESMA Lowers Thresholds for Reporting to 0.1%

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On 13 March 2020, the Comisión Nacional del Mercado de Valores in Spain and Commissione Nazionale per le Società e la Borsa in Italy imposed temporary bans on short selling across a list of 154 shares traded on Spanish and Italian venues. These two measures were followed by temporary bans on short sales of the same list of shares in Germany, on the Tradegate Exchange and in the United Kingdom. The bans applied to the trading session on 13 March and have not been extended.

Earlier today, ESMA published a decision to lower the initial disclosure threshold for reporting of net short positions under the EU Short Selling Regulation (“SSR”) to 0.1% (from 0.2%). This measure applies in respect of net short positions in shares admitted to trading on a trading venue in the European Union (other than shares appearing on ESMA’s exempt shares list on the basis that their principal trading venue is outside the European Union). The SSR reporting obligations cover net short positions held via futures, options, swaps, depositary receipts, indices or baskets, and other instruments that have the same economic effect as a cash short.

The new lower threshold applies with immediate effect for three months. The stated aim of the new measure is to provide the EU member state regulators and ESMA with a greater level of transparency to enable the monitoring of the threats to the orderly functioning and integrity of the financial markets in the European Union resulting from the outbreak of the COVID-19 pandemic.

No changes are being proposed to the existing methods for reporting net short positions to the local regulators for the relevant market. No changes are made to the initial threshold for the public disclosure of net short positions in shares (currently at 0.5%). The incremental threshold of 0.1% for net short positions above the initial reporting threshold continues to apply.

The full text of ESMA’s decision is available [here](#).

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

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