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Application of the European regulation on short selling

21 June 2022

Focus on the European Regulation 236/2012 on short selling that frames short positions in shares and sovereign debt. In this section, you will also find file containing the history of net short positions published since 1st November 2012.

The main provisions of the regulation

- 1 • Regulation 236/2012 establishes European transparency rules on short sales (net short positions). This regime replaces the one that existed in France since February 2011, without changing it substantially
- 2 • It strengthens the location requirements concerning securities that are subject to short selling in order to prevent delivery defaults (“locate rule”)
- 3 • It prohibits the purchase of any sovereign credit default swap¹ (CDS) that does not hedge a correlated exposure

Reporting obligations

Any natural or legal person who holds a short position equal to or higher than 0.1% of the share capital of a company whose shares are admitted to trading on a European trading venue, if the main market for the share in question is located in Europe, must notify the competent Authority of this position within one trading day. The notification threshold set at 0.2% in Regulation 236/2012 was reduced to 0.1% following the entry into force of Commission Delegated Regulation 2022/27. It entered into force on 31 January 2022.

When the net short position is equal to or higher than 0.5% of the share capital, the competent authority publishes this information.

The same obligation of reporting to and publication by the competent authority applies when one of the successive supplementary thresholds set by 0.1% steps is crossed, either upwards or downwards.

If an entity holding a published net short position crosses downwards the 0,5% threshold, a notification must be sent under the same conditions. The competent authority publishes this downwards crossing notification and, the next day, removes this publication and all the previous related net short position publications.

Download the disclosures of net short positions equal to or higher than 0.5% of the share capital of companies covered by European Regulation 236/2012, in the [Decisions and Financial Information Database \(BDIF\)](https://bdif.amf-france.org/en_US/Recherche-avancee?formId=BDIF&DOC_TYPE=BDIF&LANGUAGE=en&subFormId=dpcn&DATE_PUBLICATION=&DATE_OBSOLESCENCE=&isSearch=true) URL = [https://bdif.amf-france.org/en_US/Recherche-avancee?formId=BDIF&DOC_TYPE=BDIF&LANGUAGE=en&subFormId=dpcn&DATE_PUBLICATION=&DATE_OBSOLESCENCE=&isSearch=true] which is accessible via the advanced search function in the website

On its website, ESMA provides a tool to find the competent authority for each company.

Exemptions

Transactions entered into within the framework of market-making activities or as an authorised primary dealer do not fall within the scope of the European Regulation, provided that the person in question has notified the AMF beforehand. The AMF may prohibit the use of this exemption if it considers that the conditions for its use are not satisfied.

[Ask for an exemption](https://www.amf-france.org/fr/espace-professionnels/psi/mes-relations-avec-lamf/effectuer-mes-reporting-notifications-et) URL = [https://www.amf-france.org/fr/espace-professionnels/psi/mes-relations-avec-lamf/effectuer-mes-reporting-notifications-et]

Short selling on sovereign debt

The net short position transparency system also concerns sovereign debt issued by European Union Member States. The reporting thresholds are provided by the Delegated Regulation of the European Commission. The information collected by the competent authorities is not disclosed.

Consolidation of short sale disclosures

The European Regulation on short selling (EU Regulation No. 236/12 on short selling and certain aspects of credit default swaps, known as SSR Regulation) sets out the conditions under which net short positions on equity are notified to the competent authorities and made public. In this context, the Autorité des marchés financiers makes available to the public, in a daily basis, an historical data file on net short positions published on each issuer under its jurisdiction. This file includes all historical data since 1 November 2012, date of application of EU Regulation No. 236/12.

*The end of month NSP file will be maintained until July 10th. After that date, only the daily NSP file will be maintained.

ACCESS TO DATA



*End of month
NSP data file (AMF
website)



Daily NSP data
file (data.gouv.fr
website)

Read more

- European Commission delegated act and regulatory technical standards on short selling
- ESMA search database (“MiFID database”) for shares admitted to trading on European markets
- ESMA FAQ on the net short position system

[1] Credit Default Swaps (CDS) are financial products used to provide cover against risks of default by an issuer.

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