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ESMA Tightens Short Selling Obligations - Net Short Position Holders to Report Positions Of 0.1% and Above

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On 16 March 2020, the European Securities and Markets Authority ("**ESMA**") issued a decision (the "**Decision**") in relation to Article 5 of the Short Selling Regulation (236/2012/EU) (the "**SSR**"), pursuant to which the minimum threshold for the net short reporting obligation in relation to shares admitted to trading on a European Union ("**EU**") regulated market has been reduced from 0.2% to 0.1%. The Decision requires that any person or entity with a net short position in a share listed on an EU regulated market will be required to notify a competent authority where that position reaches or exceeds 0.1% of the issued share capital. This requirement will last for three months from 16 March 2020.

ESMA did not clarify whether the Decision applies in relation to shares admitted to trading on a regulated market the UK, following the UK's withdrawal from the EU on 31 January 2020. However, the UK Financial Conduct Authority ("FCA") has confirmed in a statement on its website that it intends to apply this change in the UK, in accordance with ESMA's Decision. The FCA stated that this change will require changes to its own technology to receive the relevant data and that, therefore for now, firms should continue to report according to the previous threshold (of 0.2%), until further notice. Therefore, firms taking positions in shares admitted trading on a regulated market the UK should continue to report under the previous rules for now, until such time that the FCA implements the relevant changes under the Decision.

Related Professionals

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