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UK Short Selling Notification Threshold Reduced to 0.1% and to Apply to Both Regulated Markets and MTFs...

January 8, 2021

On 6 January 2021, the HM Treasury published the Short Selling (Notification Thresholds) Regulations 2021 (the "**Regulations**"). The FCA has updated its webpage on the notification and disclosure of net short positions to include an update in respect of the same.

The Regulations amend the retained EU law version of the Short Selling Regulation (2012/236) in the UK (the "**UK SSR**") by lowering the initial notification threshold, from 0.2% to 0.1%., for the reporting of net short positions to the FCA relating to the issued share capital of a company that has shares admitted to trading on a trading venue.

In March 2020, The European Securities and Markets Authority made a temporary decision to apply a threshold of 0.1% for shares admitted to trading on regulated markets in EEA Member States, which was subsequently renewed – this was due to uncertainty caused by COVID-19. However, this decision ceased to have effect in the UK on 31 December 2020 – at the end of the Brexit transition period – meaning that the threshold reverted to 0.2%.

The Regulations will ensure that the lower threshold of 0.1% takes effect in the UK from 1 February 2021, when the Regulations come into force, and will apply indefinitely from that date. In the meantime, until 1 February 2021, notifications can be made to the FCA at the 0.1% threshold but this is not a formal requirement.

The purpose of this change is to ensure that the FCA receives the necessary data to effectively monitor short selling activity during times of increased market volatility caused in part by the COVID-19 pandemic. In addition, in contrast to EU Member States, the Regulations would mean that the 0.1% threshold will apply in respect of shares admitted to trading on UK regulated markets (such as the Main Market of the London Stock Exchange) and UK multilateral trading facilities (known as "**MTFs**") (such as the Alternative Investment Market (AIM) of the London Stock Exchange), whereas in the EU the 0.1% threshold applies only in respect of shares admitted to trading on EU regulated markets. The government has taken this approach following market feedback provided to the FCA. It is expected that the consistency of applying the 0.1% threshold to regulated markets and MTFs should result in a simpler, less burdensome regime.

Related Professionals

- **John Verwey**
  Partner
- **Michael Singh**
  Associate