

15/04/2020

FSMA announces a renewal of the prohibition of short selling and similar transactions on the regulated market of Euronext Brussels, pursuant to Article 20 of the Regulation (EU) no. 236/2012 of the European Parliament (SSR)

HAVING REGARD TO Regulation (EU) no. 236/2012 of the European Parliament and of the Council of March 14, 2012 (SSR);

HAVING REGARD TO Article 37ter of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, according to which the FSMA is appointed with the task to implement the measures and exercise the functions and powers provided by Regulation (EU) no. 236/2012 of the European Parliament and of the Council of March 14, 2012 with reference to shares, among others;

HAVING REGARD TO Article 20 of the above-mentioned Regulation (EU) no. 236/2012, which defines the power to restrict short selling of financial instruments in case there are adverse events or developments which constitute a serious threat to financial stability or to market confidence in the Member State concerned or in one or more other Member States and the measure is necessary to address the threat and will not have a detrimental effect on the efficiency of financial markets which is disproportionate to its benefits;

HAVING REGARD TO Article 24 of the above-mentioned Regulation (EU) no. 236/2012, which defines the conditions under which a previous measure to restrict short selling of financial instrument may be extended;

HAVING REGARD TO the measures taken by the European Central Bank and the US Federal Reserve in order to support banks, companies and the real economy;

CONSIDERING the outbreak of the COVID-19 pandemic is having serious adverse effects on the real economy and on the financial markets of the Union. As regards the latter, since 20 February 2020 the stock markets in the EU lost up to 25 % in value or more, and all sectors and types of issuers were affected by severe share price falls;

CONSIDERING the measures taken since March 12, 2020 by the Belgian government in order to limit the spreading of COVID-19 on the Belgian territory, including limitation of public and private activities, mandatory business closures and access restrictions to public places;

CONSIDERING that the emergency situation linked to the pandemic may cause a general state of alert which seriously threatens market confidence and that given the current market circumstances, an evolution towards substantial threats to the financial stability is possible;

CONSIDERING the severe losses observed, the incertitude as regards the spreading of the COVID-19 contagion and the possible consequent further volatility and downward price spirals having the effect of prejudicing market confidence;

CONSIDERING that ESMA continues to observe substantial selling pressure and unusual volatility in the price of shares of financial institutions, as the contingency linked to the COVID-19 pandemic may result in market participants taking new short positions in order to profit from further price falls, which may in turn exacerbate the falls already experienced in the past weeks;

CONSIDERING that the prohibition to open or increase net short positions would eliminate a factor that may play a significant role in exacerbating the fall of prices of shares admitted to trading on EU trading venues and therefore threaten financial stability;

CONSIDERING that the suspension of the capacity of market participants in the Belgian market to enter into short sales or into transactions with equivalent effect in relation to shares admitted to trading on regulated markets would not have a detrimental effect on the efficiency of financial markets or on investors that is disproportionate to its benefits but rather deems suitable and adequate to provide an appropriate and uniform level of protection to all Belgian issuers and investors and the wider Belgian market as a whole;

CONSIDERING the actions taken by other National Competent Authorities across the European Union and the general conditions on markets organized by Euronext SA;

HAVING CONSIDERED the previous ban on short-selling taken on March 17, 2020 and applied on March 18,

2020;

THE FSMA RESOLVES AS FOLLOWS:

1. The renewal of the prohibition of entering into a short sale which might constitute or increase a net short position on stocks admitted to trading to Belgian trading venues, including any transaction which creates, or relates to, a financial instrument and where the effect or one of the effects of that transaction is to confer a financial advantage on the natural or legal person in the event of a decrease in the price or value of another financial instrument, in accordance with Article 20(2) a) and b), taking effect on April 17, 2020 at 00:00:01 AM to May 18, 2020 at 11:59 PM.

The ban applies regardless of the place where the transaction is executed (i.e. on a trading venue or OTC).

The measure applies to shares admitted to trading on a Belgian Trading Venue (Euronext Brussels, Euronext Growth Brussels) where the relevant competent authority is the FSMA under MiFID 2 provided that the principal venue for the trading of the shares is located within the EU, as well as to all related instruments relevant for the calculation of the net short position determined in Annex I, part 1, articles 5 and 6 of Commission Delegated Regulation EU N° 918/2012. The ban applies to index-related instruments and baskets of financial instruments as far as the shares covered by the ban represent more than 50 % of the index or the basket weight.

2. The following transactions are excluded from the ban:

- The creation of, or increase in, net short positions when the investor who acquires a convertible bond has a delta-neutral position between the equity component of the convertible bond and the short position taken to cover that component.
- The creation of, or increase in, net short positions where the creation of, or increase in, the short position in shares is hedged by a purchase that is equivalent in terms of proportion on subscription rights.
- The creation of, or increase in, net short positions through index-related instruments or baskets of financial instruments, as far as the shares covered by the ban do not represent more than 50 % of the index or basket weight.
- Transactions undertaken by market makers in that capacity as defined by article 2.1.k) of SSR and according to article 17 of SSR.

3. The conditions included in its resolution replace the ones previously in force and shall be applied as of April 17, 2020 at 00:00:01.

This resolution has been transmitted to ESMA pursuant to Article 26 of the Regulation EU no. 236/2012 and will be published on the FSMA website.

This resolution will also be transmitted to Euronext Brussels and will take effect as soon as it is published on the FSMA website.

For additional information we refer to the [ESMA Q&A on the Regulation on short selling and certain aspects of credit default swaps \(SSR\)](#).

Source URL: <https://www.fsma.be/en/news/renewal-prohibition-short-selling>