

# Financial Regulatory Alert

**Akin Gump**  
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## Further EU Short Selling Prohibitions and FCA Update

March 17, 2020

Following on from Friday's temporary prohibitions on short selling, Belgium, France, Italy, Spain and the U.K. have announced temporary prohibitions on short selling of specified shares exercising the exceptional powers granted under the European Union Short Selling Regulation ("Short Selling Regulation") in light of the continued market disruption. The temporary prohibitions generally exclude transactions undertaken by market makers in that capacity in accordance with the Short Selling Regulation. The regulators, as well as European Securities and Markets Authority (ESMA) and other regulatory authorities in Europe, continue to consider whether and which additional measures are appropriate.

In particular, the Spanish regulator has stated that while the bulk of the sales are a result of the unwinding of long positions (particularly in the Spanish banking sector) and by contrast short positions have not represented a substantial proportion of market activity in the affected shares, given the current economic climate, short positions entered into in the coming weeks could have a significant adverse impact on the price of the shares of Spanish credit institutions and the stability of the broader financial system.

**Belgium:** Belgium's Financial Services and Markets Authority (FSMA) announced the temporary prohibition for March 17, 2020, of the short selling of the shares of 18 issuers admitted to trading on Euronext. FSMA's resolution and the list of affected shares are available [here](#).

**France:** Autorité des marchés financiers (AMF), the French financial regulator, issued a temporary prohibition on the short sales of over 90 names for the trading day of March 17, 2020. AMF's resolution and a list of the shares subject to the prohibition is available [here](#).

**Italy:** The temporary measure by the Commissione Nazionale per le Società e la Borsa (CONSOB), the Italian regulator, prohibits the short selling of 20 names, and applies for the trading day March 17, 2020. Further restrictive measures are expected, including a broader scope of the prohibition. See CONSOB's resolution [here](#).

### Contact Information

If you have questions or would like to discuss, please contact one of the partners named below, or your usual contact at Akin Gump.

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**Spain:** The Comisión Nacional del Mercado de Valores (CNMV) has extended the short sale phrased to refer to “net short specifically includes synthetic short positions through the use of derivatives, American depository receipts (ADRs)/Global depository receipt (GDRs) and exchange-traded fund (ETFs)”, but only applies to instruments relating to indices that are composed mainly of shares affected by the prohibition. In addition, CNMV’s prohibition is issued for an initial period of one month, March 17, 2020, through April 17, 2020, but may be extended for up to three months. The prohibition does not apply to the creation of net short positions in a convertible bond where there is a delta-neutral position between the equity component of the convertible bond and the short position taken to cover that component. CNMV’s decision is available [here](#), and ESMA’s opinion and broader discussion relating to the same is available [here](#).

**U.K.:** The Financial Conduct Authority (FCA) has announced the temporary prohibition of short sales in certain shares (included in the other EU short sale bans) for the trading day March 17, 2020. The announcement is available [here](#).

### **FCA Update**

The FCA has confirmed that the temporary emergency measure of the ESMA lowering the net short position disclosure threshold to 0.1 percent will apply in the U.K. (see Akin Gump alert on the topic). However, as the change in the notification thresholds requires technical changes to the FCA’s systems, the FCA has **advised** firms to continue to report net short positions according to previous thresholds until further notice. The FCA’s notifications on the matter will be available as updates to its **short selling landing page**.

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