European Securities and Markets Authority

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Additional Information

Level 1 Regulation
Short Selling Regulation (SSR) Regulation (EU) No 236/2012

Topic
Scope

Subject Matter
Identification of the relevant competent authority

Question
Which is the Relevant Competent Authority (RCA) for the financial instruments mentioned in point v) of Article 2(1)(j) of the SSR (and in particular, for shares) following the application start date of MiFID II/MiFIR?

ESMA Answer

14-11-2018

Original language

[ESMA70-145-408 SSR Q&A, Q&A 4.10]

In relation to the financial instruments referred to in point v) of Article 2(1)(j) of the SSR (that encompasses shares), when the MiFID I regime was applicable, the relevant competent authority used to be determined by Commission Regulation No 1287/2006, supplementing MiFID I, that specified Article 25(3) of that Directive.

With the application of MiFID II / MiFIR regime, whereas the formal reference in SSR to Commission Regulation 1287/2006 has not changed, Article 25(3) of MiFID I has been substituted by Article 26(1) and (2) of MiFIR, supplemented by Commission Delegated Regulation (EU) 2017/590. Therefore, the reference to Commission Regulation 1287/2006 has to be read as referring to Commission Delegated Regulation (EU) 2017/590 for the reporting of transactions to competent authorities.

As a consequence, the RCA for SSR purposes coincides with the national competent authority of the most liquid market in terms of liquidity for transaction reporting purposes that is published by ESMA under the Financial Instrument Reference Data (FIRDS) section of its website, as required by Article 27 of MiFIR and Article 4 of Regulation (EU) No 596/2014 MAR.

Therefore, the notification of net short positions in shares (Article 5 SSR), the public disclosure of significant net short positions in shares (Article 6 SSR) and the restrictions on uncovered short shales in shares (Article 12 SSR) have to be submitted to the national competent authority of the jurisdiction that appears in FIRDS as “Upcoming RCA”.