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Additional Information

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

Topic
Determination of net short position

Subject Matter
Positions in UCITS

Question
Can we include a long position in a UCITS fund in the calculation of the net short position? And if the position in the UCITS fund has to be included in the calculation, and taking into account that Article 3(3) of the Regulation specifies that “no person shall be required to obtain any real-time information as to such composition from any person”, is there a requirement to update its composition on a daily basis?

ESMA Answer

29-01-2013

Original language

[ESMA70-145-408 SSR Q&A, Q&A 6.11]

If the concerned UCITS fund is an ETF or similar instrument included in Annex I, Part 1, of the DR, and if its composition is publicly available for look-through purposes, then it should be included in the calculation of net short position. Otherwise, it should be excluded. In this last case, in fact, the net short position calculation should be conducted at the level of the fund management entities.

If the position has to be included in the calculation of net short position, the fact that the Regulation does not require the investor to obtain real time information should not prevent them from checking the composition on a daily basis if this information is publicly available and if it is likely that the composition can change on a daily basis. As stated in Q&A 1914, once information on index composition has been obtained, investors have to process that information for conducting the calculation of the net short position.