

**Submission Date**

29/01/2013

# ESMA\_QA\_1929

Status: Answer Published

## **Additional Information**

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### **Level 1 Regulation**

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

### **Topic**

Other SSR-related topics

## **Subject Matter**

Net short positions - Reporting by groups

## **Question**

In line with Article 13(2) of the DR, the group shall report, and disclose where relevant, the net short position in a particular issuer when it reaches or exceeds a relevant notification disclosure threshold. Provided that a group is not a legal entity, which legal entity within a group shall submit a notification?

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Original language

[ESMA70-145-408 SSR Q&A, Q&A 8.6]

A definition of a group is provided in Article 2(a) of the DR. However, the DR does not provide for the necessary information to determine which legal entity within a group is empowered to represent the said group when the latter has to notify a net short position to a competent authority.

Article 13(3) of the DR only prescribes that a legal entity shall be designated for this purpose. Where a legal entity within a group is designated to report on behalf of the group, ESMA strongly encourages that the same legal entity is used for all such reports.

Even if no further requirement on this matter can be imposed, ESMA nevertheless recommends that, where a group has to notify a net short position to a competent authority, a good practice would be to consider that the head company of the group is the relevant legal entity to represent the group. Indeed, the head company of a group generally is the legal entity that controls all undertakings within the group.