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Additional Information

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

Topic
Uncovered short sales

Subject Matter
Sovereign debt - Market operators considered as third parties with whom arrangements can be made

Question
A market operator who manages a regulated market for sovereign debt can be considered a third party in accordance with Article 8(1)(f) of ITS?

ESMA Answer

13-09-2012

Original language

[ESMA70-145-408 SSR Q&A, Q&A 10.9]

Yes, a market operator can be considered a third party according to Article 8(1)(f) of ITS if:

- it "*is subject to the authorization or registration requirements in accordance with Union law*" (Article 8(1)(f));
- it "*participates in the management of borrowing or purchasing of […] the sovereign debt* " (Article 8(2)(a)), for example by managing a repo platform (for borrowing the debt) or a cash platform (for purchasing the sovereign securities);
- it is able to "*provide evidence of such participation*" and, "*on request, to provide evidence of its ability to deliver or process the delivery of […] sovereign debt on the dates it commits to do so to its counterparties including statistical evidence*" (Article 8(2)(b)-(c)) (e.g. with official statistics of market activity)

Such a third party can provide an "Easy to purchase sovereign debt confirmation" according to Article 7(5) of the ITS (pursuant Article 13(1)(c) of the Regulation), confirming that the sovereign debt is liquid on the platform so that there is a reasonable expectation that the securities can be borrowed or purchased in due time to ensure the settlement of the short sale.