# ESMA_QA_1957

**Submission Date**
29/01/2013

Status: Answer Published

## Additional Information

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

**Topic**
Other SSR-related topics

**Subject Matter**
Uncovered Credit Default Swap - Replacement trades on sovereign CDS concluded before 25 March 2012

**Question**
A replacement trade is a practice used in compression service for CDS. They aims partially terminate a CDS and subsequently replace with new swap corresponding in economic terms with the trades they replace. With respect to sovereign CDS concluded before 25 March 2012, are replacement trades on these CDS deemed to fall under the transitional measures

set out in Art 46(2) of the Regulation (sovereign CDS concluded before 25 March 2012 may be held until the maturity date of the contract even if such CDS result in an uncovered position)? Or should such replacement trades be subject to Article 14 of the Regulation (restriction to enter into an uncovered CDS)?

## ESMA Answer

29-01-2013

Original language

[ESMA70-145-408 SSR Q&A, Q&A 11.7]

Provided that the replacement trade does not extend the life or value of the sovereign CDS position beyond what they were when originally taken out before 25 March 2012, ESMA considers that it would be legitimate to treat the trade as an existing rather than a new contract and so not encompassed by the Regulation's prohibition on entering into uncovered sovereign CDS transactions.