



OPINION

Emergency measure by the Greek HCMC under Section 1 of Chapter V of Regulation No 236/2012 on short selling and certain aspects of credit default swaps

I. Legal basis

1. According to Article 27(2) of Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (the Regulation), the European Securities and Markets Authority (ESMA) shall within 24 hours of the notification having been made by a competent authority under Article 26 of the Regulation issue an opinion on whether it considers the measure or proposed measure necessary to address the exceptional circumstances.
2. ESMA's competence to deliver an opinion is based on Article 29(1) (a) of Regulation (EC) No 1095/2010 (ESMA Regulation). In accordance with Article 44(1) of the ESMA Regulation the Board of Supervisors has adopted this opinion.

II. Background

3. On 29 January 2013, ESMA issued an opinion of the emergency measure introduced on 1 February 2013 by the Hellenic Capital Market Commission (HCMC). The temporary prohibition --on short selling of shares of 7 credits institutions admitted to trading on the Athens Exchange and part of the FTS/ATHEX-CSE Banking index irrespective of the venue where the transaction is executed - has been in force from 1 February 2013 and will expire on 30 April 2013.
4. In accordance with Article 26 of the Regulation, the HCMC has notified ESMA and other competent authorities on 30 April 2013 of its intention to make use of its powers of intervention in exceptional circumstances and to renew the current emergency measure under Article 20 of the Regulation. The short selling temporary prohibition applies to all depository receipts (ADRs, GDRs) and warrants representing shares of the above mentioned credit institutions.
5. The proposed prohibition on short selling remains subject to the exemption for market making activities. Further details on the measure and applicable exemptions can be obtained from the HCMC website.
6. The measure is expected to enter into force on 1 May 2013 at 00:00:01 (Athens time) and to be applicable until 24:00:00 (Athens time) on 31 July 2013.
7. HCMC indicated that the adverse situations or circumstances leading to the introduction of the temporary prohibition in February have been persisting in the Greek banking sector. They continue to constitute a serious threat to the financial stability of, and confidence in, the financial market in

Greece. The necessary process of bank recapitalisation and restructuring is to date not completed and remains fragile thus creating market uncertainties. Unusually high volatility associated with the potential substantial selling pressures to arise could cause significant downward spirals in any financial instrument related to these credit institutions and would jeopardise this process which is essential to the overall stabilisation of the Greek economy.

8. ESMA is adopting the following opinion on the notified measure, on the basis of Article 27(2) of Regulation 236/2012 on Short selling and certain aspects of credit default swaps:

On the adverse events or developments

ESMA considers that there are still adverse developments relating to the banking sector which constitute a serious threat to financial stability and to market confidence in Greece.

On the appropriateness and proportionality of the measure

ESMA considers that the measure which is targeted to credit institutions admitted to trading on the Athens Stock Exchange remains appropriate and proportionate to address the above mentioned threats that persist in Greece.

On the duration of the measure

ESMA considers that the duration of the measure is justified and appreciates the HCMC's statement in its notification of intent whereby the measure may be lifted during the period of application of the measure, if appropriate.