EU Short Selling Regulation Plan

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## Product

* **Financial Instruments** (Annex I Section C of Directive 2004/39/EC)

(1) Transferable securities;

(2) Money-market instruments;

(3) Units in collective investment undertakings;

(4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash;

(5) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event);

(6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF;

(7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in C.6 and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognized clearing houses or are subject to regular margin calls;

(8) Derivative instruments for the transfer of credit risk;

(9) Financial contracts for differences.

(10) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls.

* **Credit Default Swap**

a derivative contract in which one party pays a fee to another party in return for a payment or other benefit in the case of a credit event relating to a reference entity and of any other default, relating to that derivative contract, which has a similar economic effect (Article 1 c)

## Unilateral Party

A natural or legal person who has a net short position in relation to the issued share capital of a company that has shares admitted to trading on a trading venue , where the position reaches or falls below a relevant notification threshold referred to in paragraph 2 of this Article

trading venue:

* a regulated market within the meaning of point (14) of Article 4(1) of Directive 2004/39/EC, or a multilateral trading facility within the meaning of point (15) of Article 4(1) of Directive 2004/39/EC;
* ‘Regulated market’ means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third‑party buying and selling interests in financial instruments – in the system and in accordance with its nondiscretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorized and functions regularly and in accordance with the provisions of Title III;
* ‘Multilateral trading facility (MTF)’ means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third‑party buying and selling interests in financial instruments – in the system and in accordance with non‑discretionary rules – in a way that results in a contract in accordance with the provisions of Title II;

A relevant notification threshold is a percentage that equals 0,2 % of the issued share capital of the company concerned and each 0,1 % above that.

1. A natural or legal person who has a net short position in relation to the issued share capital of a company that has shares admitted to trading on a trading venue shall disclose details of that position to the public, in accordance with Article 9, where the position reaches or falls below a relevant publication threshold referred to in paragraph 2 of this Article.

2. A relevant publication threshold is a percentage that equals 0,5 % of the issued share capital of the company concerned and each 0,1 % above that

## Bilateral Party

If any unilateral party is in scope, then bilateral party is in scope

## Transaction Context

Enter into a Short Position:

‘short sale’ in relation to a share or debt instrument means any sale of the share or debt instrument which the seller does not own at the time of entering into the agreement to sell including such a sale where at the time of entering into the agreement to sell the seller has borrowed or agreed to borrow the share or debt instrument for delivery at settlement, not including:

1. a sale by either party under a repurchase agreement where one party has agreed to sell the other a security at a specified price with a commitment from the other party to sell the security back at a later date at another specified price;
2. a transfer of securities under a securities lending agreement; or
3. entry into a futures contract or other derivative contract where it is agreed to sell securities at a specified price at a future date;
4. a short sale of a share issued by a company or of a debt instrument issued by a sovereign issuer;

(b) entering into a transaction which creates or relates to a financial instrument other than an instrument referred to in point (a) where the effect or one of the effects of the transaction is to confer a financial advantage on the natural or legal person entering into that transaction in the event of a decrease in the price or value of the share or debt instrument.

## Obligations

Any notification or disclosure should set out details of the identity of the natural or legal person who holds the relevant position, the size of the relevant position, the issuer in relation to which the relevant position is held and the date on which the relevant position was created, changed or ceased to be held.

natural and legal persons that hold significant net short positions shall keep, for a period of 5 years, records of the gross positions which make a significant net short position.

notify the relevant competent authority (e.g. AMF for France, first tier is BaFin for Germany second tier is publish in Federal Gazette, in Germany if net short position in sovereign debt, only notify BaFin, no second tier)

The relevant time for calculation of a net short position shall be at midnight at the end of the trading day on which the natural or legal person holds the relevant position.

That time shall apply to all transactions irrespective of the means of trading used, including transactions executed through manual or automated trading, and irrespective of whether the transactions have taken place during normal trading hours.

The notification or disclosure shall be made not later than at 15.30 on the following trading day. The times specified in this paragraph shall be calculated according to the time in the Member State of the relevant competent authority to whom the relevant position must be notified.