

ARTICLE			SUBTITLE	TITLE
CONTENT	SUBTITLE	TITLE	GENERAL PROVISIONS	CHAPTER I
<div class="crrArticle"> <p>This Regulation lays down implementing technical standards specifying the following:</p> <ol class="crrCharList" style="list-style-type: none"> the means by which information on net short positions may be disclosed to the public by natural or legal persons as well as the format of information to be provided to the European Securities and Markets Authority (hereinafter ESMA) by competent authorities pursuant to Article 9(6) and Article 11(4) of Regulation (EU) No 236/2012; the types of agreements, arrangements and measures that adequately ensure that the shares are available for settlement and the types of agreements or arrangements that adequately ensure that the sovereign debt is available for settlement pursuant to Article 12(2) and 13(5) of Regulation (EU) No 236/2012; the date and period for principal trading venue calculations, notification to ESMA and the effectiveness of the relevant list pursuant to 16(4) of Regulation (EU) No 236/2012. </div>	Subject Matter	Article 1		
CONTENT	SUBTITLE	TITLE	MEANS FOR PUBLIC DISCLOSURE OF SIGNIFICANT NET SHORT POSITIONS IN SHARES	CHAPTER II
<div class="crrArticle"> <p>Information on net short positions in shares shall be disclosed to the public by posting it on a central website operated or supervised by the relevant competent authority pursuant to Article 9(4) of Regulation (EU) No 236/2012. The information shall be disclosed to the public through means which:</p> <ol class="crrCharList" style="list-style-type: none"> publish it in the format specified in Annex I in such a way as to allow the public consulting the website to access one or more tables offering all the relevant information on positions per share issuer; allow users to identify and filter on whether the net short positions in a share issuer at the time of accessing the website has reached or exceeded the relevant publication threshold; </div>	Means by which information may be disclosed	Article 2		

that information shall be provided in accordance with the requirements established in Article 2 of Commission Delegated Regulation (EU) No 826/2012See page 1 of this Official Journal..Information requested shall be sent by the competent authority in electronic format, using a system established by ESMA for exchanging information that ensures that the completeness, integrity and confidentiality of the information are maintained during its transmission.	provided upon request	±		
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CONTENT	SUBTITLE	TITLE		
<ol class="crrNumList"> <p>An agreement to borrow or other enforceable claim referred to in Article 12(1)(b) and Article 13(1)(b) of Regulation (EU) No 236/2012 shall be made by means of the following types of agreement, contract or claim which are legally binding for the duration of the short sale: </p> <ol class="crrCharList"> futures and swaps: futures and swap contracts leading to a physical settlement of the relevant shares or sovereign debt and covering at least the number of shares or amount of sovereign debt proposed to be sold short by the natural or legal person, entered into prior to or at the same time as the short sale and specifying a delivery or expiration date that ensures settlement of the short sale can be effected when due; options: options contracts leading to a physical settlement of the relevant shares or sovereign debt and covering at least the number of shares or amount of sovereign debt proposed to be sold short by the natural or legal person, entered into prior to or at the same time as the short sale and specifying an expiration date that ensures settlement of the short sale can be effected when due: repurchase				

agreements: repurchase agreements covering at least the number of shares or amount of sovereign debt proposed to be sold short by the natural or legal person, entered into prior to or at the same time as the short sale and specifying a repurchase date that ensures settlement of the short sale can be effected when due;

standing agreements or rolling facilities: an agreement or facility which is entered into prior to or at the same time as the short sale, of a predefined amount of specifically identified shares or sovereign debt, which for the duration of the short sale, covers at least the number of shares or amount of sovereign debt proposed to be sold short by the natural or legal person and specifies a delivery or execution date that ensures settlement of the short sale can be effected when due;

agreements relating to subscription rights: agreements relating to subscription rights where the natural or legal person is in possession of rights to subscribe for new shares of the same issuer and of the same class and covering at least the number of shares proposed to be sold short provided that the natural or legal person is entitled to receive the shares on or before settlement of the short sale;

other claims or agreements leading to delivery of the shares or sovereign debt: agreements or claims which cover at least the number of shares or amount of sovereign debt proposed to be sold short by the natural or legal person, entered into prior to or at the same time as the short sale, and specifying a delivery or an execution date that ensures settlement can be effected when due.

The agreement, contract or claim shall be provided in a durable medium by the counterparty to the natural or legal person as

Agreements to borrow and other enforceable claims having similar effect

Article 5

evidence of the existence of the agreement to borrow or other enforceable claim.		
<p>Paragraphs 2, 3 and 4 shall determine the arrangements and measures to be taken in relation to short sales of a share admitted to trading on a trading venue pursuant to Article 12(1) (c) of Regulation (EU) No 236/2012.</p> <p>Standard locate arrangements and measures shall mean arrangements, confirmations and measures that include each of the following elements:</p> <ul style="list-style-type: none"> for locate confirmations: a confirmation provided by the third party, prior to the short sale being entered into by a natural or legal person, that it considers that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions and which indicates the period for which the share is located; for put on hold confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that it has at least put on hold the requested number of shares for that person. <p>Standard same day locate arrangements and measures shall mean arrangements, confirmations and measures that include each of the following elements:</p> <ul style="list-style-type: none"> for requests for confirmation: a request for confirmation from the natural or legal person to the third party which states that the short sale will be covered by purchases during the day on which the short sale takes place; for locate confirmations: a confirmation provided by the third party prior to the 		

DOCUMENT SECTION

short sale being entered into that it considers that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions, and which indicates the period for which the shares are located;

- for easy to borrow or purchase confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that the share is easy to borrow or purchase in the relevant quantity taking into account the market conditions and other information available to that third party on the supply of the shares or, in the absence of this confirmation by the third party, that it has at least put on hold the requested number of shares for the natural or legal person;
- for monitoring: an undertaking by the natural or legal person to monitor the amount of the short sale not covered by purchases;
- for instructions in the event of failure to cover: an undertaking from the natural or legal person that in the event that executed short sales are not covered by purchases in the same day, the natural or legal person will promptly send an instruction to the third party to procure the shares to cover the short sale to ensure settlement in due time.

Easy to borrow or purchase arrangements and measures shall mean arrangements, confirmations and measures when the natural or legal person enters into a short sale of shares that meet the liquidity requirements established in Article 22 of Commission Regulation (EC) No 1287/2006 OJ L 241, 2.9.2006, p. 1., or other shares that are included in the main national equity index as identified by the relevant competent authority of each Member State and are the undertaking

Arrangements and measures to be taken in relation to short sales of a share admitted to trading on a trading venue[Article 12(1)(c) of Regulation (EU) No 236/2012]

Article 6

AGREEMENTS, ARRANGEMENTS AND MEASURES TO ADEQUATELY ENSURE AVAILABILITY FOR SETTLEMENT[ARTICLES 12 AND 13 OF REGULATION (EU) No 236/2012]

CHAPTER IV

are the underlying financial instrument for a derivative contract admitted to trading on a trading venue, that include the following elements:

- for locate confirmations: a confirmation provided by the third party prior to the short sale being entered into that it considers that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions and indicating the period for which the share is located;
- for easy to borrow or purchase confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that the share is easy to borrow or purchase in the relevant quantity taking into account the market conditions and other information available to that third party on the supply of the shares, or in the absence of this confirmation by the third party, that it has at least put on hold the requested number of shares for the natural or legal person; and
- for instructions to cover: when executed short sales will not be covered by purchases or borrowing, a undertaking that a prompt instruction will be sent by the natural or legal person instructing the third party to procure the shares to cover the short sale to ensure settlement in due time.

The arrangements, confirmations and instructions referred to in paragraphs 2, 3 and 4 shall be provided in a durable medium by the third party to the natural or legal person as evidence of the existence of the arrangements, confirmations and instructions.

Paragraphs 2 to 5 shall determine the arrangements with third parties to be taken in relation to sovereign debt

pursuant to Article 13(1) (c) of Regulation (EU) No 236/2012.

Standard sovereign debt locate arrangement shall mean a confirmation from the third party, prior to the short sale being entered into, that it considers that it can make the sovereign debt available for settlement in due time, in the amount requested by the natural or legal person, taking into account market conditions and indicating the period for which the sovereign debt is located.

Time limited confirmation arrangement shall mean an arrangement where the natural or legal person states to the third party that the short sale will be covered by purchases during the same day of the short sale and the third party confirms, prior to the short sale being entered into, that it has a reasonable expectation that the sovereign debt can be purchased in the relevant quantity taking into account the market conditions and other information available to that third party on the supply of the sovereign debt instruments on the day of entering into the short sale.

Unconditional repo confirmation shall mean a confirmation where the third party confirms, prior to the short sale being entered into, that it has a reasonable expectation that settlement can be effected when due as a result of its participation in a structural based arrangement, organised or operated by a central bank, a debt management office or a securities settlement system that provides unconditional access to the sovereign debt in question for a size consistent with the size of the short sale.

Easy to purchase sovereign debt confirmation shall mean a confirmation by the third party, provided prior to the short sale being entered into, that it has a reasonable expectation that settlement can be

Arrangements with third parties to be taken in relation to sovereign debt[Article 13(1)(c) of Regulation (EU) No 236/2012]

Article
7

that settlement can be effected when due on the basis that the sovereign debt in question is easy to borrow or purchase in the relevant quantity taking into account the market conditions and any other information available to that third party on the supply of the sovereign debt.

The arrangements, confirmations and instructions referred to in paragraphs 2 to 5 shall be provided in a durable medium by the third party to the natural or legal person as evidence of the existence of the arrangements, confirmations and instructions.

Where an arrangement referred to in Articles 6 and 7 is made with a third party, the third party shall be one of the following types:

in the case of an investment firm: an investment firm which meets the requirements set out in paragraph 2;

in the case of a central counterparty: a central counterparty which clears the relevant shares or sovereign debt;

in the case of a securities settlement system: a securities settlement system as defined under Directive 98/26/EC of the European Parliament and of the Council OJ L 166, 11.6.1998, p. 45. which settles payments in respect of the relevant shares or sovereign debt;

in the case of a central bank: a central bank that accepts the relevant shares or sovereign debt as collateral or conducts open market or repo transactions in relation to the relevant shares or sovereign debt;

in the case of a national debt management entity: the national debt management entity of the relevant sovereign debt issuer;

any other person who is subject to authorisation or registration requirements

Third parties with whom arrangements are made

Article 8

in accordance with Union law by a member of the European System of Financial Supervision and meets the requirements set out in paragraph 2;

- a person established in a third country who is authorised or registered, and is subject to supervision by an authority in that third country and who meets the requirements set out in paragraph 2, provided that the third country authority is a party to an appropriate cooperation arrangement concerning exchange of information with the relevant competent authority.

For the purposes of points (a), (f) and (g) of paragraph 1, the third party shall meet the following requirements:

- participate in the management of borrowing or purchasing of relevant shares or sovereign debt;
- provide evidence of such participation;
- be able, on request, to provide evidence of its ability to deliver or process the delivery of shares or sovereign debt on the dates it commits to do so to its counterparties including statistical evidence.

CONTENT	SUBTITLE	TITLE
<ul style="list-style-type: none"> Relevant competent authorities shall make any calculations determining the principal trading venue for a share by at least 35 calendar days before the date of application of Regulation (EU) No 236/2012 in respect of the period between 1 January 2010 and 31 December 2011. Subsequent calculations shall be made before 22 February 2014 in respect of the period between 1 January 2012 and 31 December 2013, and every two years thereafter in respect of the subsequent two year period. Where the share concerned was not admitted to trading during the whole two-year period on the trading venue in the 	Date and period for principal trading venue calculations	Article 9

Union and the third country trading venue, the period for calculation shall be the period during which the share was admitted to trading on both venues concurrently.				
Relevant competent authorities shall notify ESMA of those shares for which the principal trading venue is outside the Union at least 35 calendar days before the date of application of the Regulation (EU) No 236/2012 and thereafter on the day before the first trading day in March every second year commencing from March 2014.	Date of notification to ESMA	Article 10		
The list of shares for which the principal trading venue is located outside the Union shall be effective as of 1 April following its publication by ESMA, except that the first list published by ESMA shall be effective from the date of entry into application of Regulation (EU) No 236/2012.	Effectiveness of the list of exempted shares	Article 11	DETERMINATION OF THE PRINCIPAL TRADING VENUE FOR THE EXEMPTION[ARTICLE 16 OF REGULATION (EU) No 236/2012]	CHAPTER V
<p>A relevant competent authority which determines whether the principal trading venue for a share is located outside the Union following one of the circumstances set out in paragraph 2 shall ensure that:</p> <ol style="list-style-type: none"> any calculations determining the principal trading venue are made as soon as possible after the relevant circumstances arise and in respect of the two year period preceding the date of calculation; it notifies ESMA of its determination as soon as possible and, where relevant, before the date of admission to trading on a trading venue in the Union. <p>Any revised list shall be effective from the day following that of its publication by ESMA.</p> <p>The provisions of paragraph 1 apply when:</p> <ol style="list-style-type: none"> the shares of a company are removed from 	Specific cases of review of exempted shares	Article 12		

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