

French Government Renews Ban on Net Short Positions in Response to the Impact of COVID-19 on French Financial Markets

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Summary

To mitigate the risks faced by French financial markets during this unprecedented period of disruption caused by the COVID-19 pandemic, the French Financial Markets Authority (AMF) announced on April 15, 2020, that it will renew the ban on net short positions¹ until May 18, 2020. Before selling any securities subject to the ban, investors must ensure that the quantity of securities sold does not create or increase a net short position.

Chronology and Renewal of the Ban

On March 16, 2020, taking account of the decline in stock prices observed on French financial markets, the chairman of the AMF prohibited² all short-selling activities³ for 92 specific stocks on certain French stock exchanges⁴ for a one-day period until the end of the trading day of March 17, 2020.⁵

On March 17, 2020, the chairman issued a subsequent ban,⁶ for an initial period of 20 days, on the creation or increase of new net short positions in relation to any equity securities traded on a French exchange for which the AMF is the competent authority.⁷

On the same day, the AMF board decided to extend this period for 10 additional days, from April 7, 2020, until April 16, 2020, leading to a 30-day ban in total.⁸ Consistent with the provisions of the EU Short Selling Regulation, the European Securities and Markets Authority (ESMA) issued a positive opinion regarding the AMF's short-selling prohibition.⁹

¹ [Decision of the board of the AMF, dated April 14, 2020.](#)

² Pursuant to Article L. 421-16 III of the French Monetary and Financial Code and Article 23 of the 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 "Short Selling Regulation").

³ This ban applied to all short-selling activities but did not apply to net short positions.

⁴ Euronext Paris (regulated market), Euronext Growth Paris or Euronext Access (multilateral trading facilities), trading venues operated by Euronext Paris.

⁵ [Decision of the chairman of the AMF, dated March 16, 2020.](#)

⁶ Pursuant to Article L. 421-16 II of the French Monetary and Financial Code and Article 20 of the Short Selling Regulation.

⁷ [Decision of the chairman of the AMF, dated March 17, 2020.](#)

⁸ [Decision of the board of the AMF, dated March 17, 2020.](#)

⁹ [ESMA's opinion, dated March 18, 2020.](#)

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Given the ongoing adverse effects of the COVID-19 virus that continue to threaten market confidence, the AMF board announced on April 15, 2020, that it will renew¹⁰ the ban on short-selling activities from midnight on April 17, 2020, through 11:59 p.m. on May 18, 2020,¹¹ a decision that will give rise to a further opinion from ESMA.

Several regulators in other European Union countries — *e.g.*, Austria, Belgium, Italy, Greece and Spain — have enacted similar bans.

Scope of the Ban

Prohibitions

The ban applies to all transactions that may constitute or increase net short positions¹² on shares¹³ admitted to trading on a French exchange (*e.g.*, Euronext Paris, Euronext Growth Paris or Euronext Access Paris) for which the AMF is the competent authority,¹⁴ as well as to all related instruments relevant for the calculation of such net short positions (*e.g.*, saving/preferred shares, derivatives, depositary receipts, index-related instruments).¹⁵

The ban covers transactions executed either on a trading venue or over the counter and applies to any natural or legal person, established or resident in France, within the European Union or in another country.¹⁶

Positions relating to financial instruments traded on the cash market and positions held through financial contracts (derivatives) are taken into account when determining the net position. For illustration purposes, calculations should include all positions resulting from transactions in options, swaps, futures, contracts

for difference, covered warrants or certificates. Traders must also take into account convertible bonds, subscription rights and index derivatives when computing the net position on each share affected by the ban. Additionally, intraday positions fall within the scope of the ban. Calculations can exclude (i) fixed income instruments or instruments that provide exposure to the creditworthiness of equity issuers (such as credit default swaps), (ii) financial instruments that were borrowed under a loan transaction and (iii) securities held as part of a life insurance contract.

Exemptions

The short-selling ban does not apply to:

- Index-related instruments on indices composed mainly of shares unaffected by the prohibition;
- Market-making activities by market makers;¹⁷
- Transactions that (i) create or increase net short positions (a) which aim exclusively to cover the risk stemming from the equity component of previously purchased convertible bonds or previously purchased subscription rights over new shares or (b) through indexed financial instruments or baskets of shares when the shares subject to the ban represent less than 50% of the composition of the index or basket; or (ii) hedge a pre-existing long position with a preexisting short position as long as the net short position is not increased.

Notifications

ESMA requires all holders of net short positions in shares traded on an EU regulated market to notify the relevant national regulators if the position reaches or exceeds 0.1% of the issued share capital.

¹⁰ Pursuant to Article L. 421-16 II of the French Monetary and Financial Code and Articles 20 and 24 of the Short Selling Regulation.

¹¹ [Decision of the board of the AMF, dated April 14, 2020.](#)

¹² According to Article 3 of the Short Selling Regulation, a net short position means “the position remaining after deducting any long position that a natural or legal person holds in relation to the issued share capital from any short position that that natural or legal person holds in relation to that capital.”

¹³ For information purposes, a [nonexclusive list of shares concerned by the ban is provided on the AMF website.](#)

¹⁴ Within the meaning of the Short Selling Regulation.

¹⁵ [Frequently asked questions on the ban, dated March 26, 2020.](#)

¹⁶ [ESMA’s opinion, dated March 18, 2020.](#)

¹⁷ According to Article 2(1)(k) of the Short Selling Regulation, “‘market making activities’ means the activities of an investment firm, a credit institution, a third-country entity or a firm as referred to in point (l) of Article 2(1) of Directive 2004/39/EC, which is a member of a trading venue or of a market in a third country, the legal and supervisory framework of which has been declared equivalent by the [European] Commission pursuant to Article 17(2) where it deals as principal in a financial instrument, whether traded on or outside a trading venue, in any of the following capacities: (i) by posting firm, simultaneous two-way quotes of comparable size and at competitive prices, with the result of providing liquidity on a regular and ongoing basis to the market; (ii) as part of its usual business, by fulfilling orders initiated by clients or in response to clients’ requests to trade; (iii) by hedging positions arising from the fulfilment of tasks under points (i) and (ii).”