

24 July 2012

Update: Spain and Italy Introduce Emergency Short Selling Restrictions

Spain and Italy reintroduce bans on short selling on 23 July 2012 following steep falls in share prices and market uncertainty.

On 23 July 2012, Spain and Italy introduced emergency short selling bans with immediate effect in response to instability and volatility in the financial markets.

Spain

The Spanish ban applies to financial instruments traded on markets governed by the Comisión Nacional del Mercado de Valores (the “CNMV”) and includes any transactions in relation to these instruments that creates a net short position, including OTC derivatives transactions (including convertible bonds) and intra-day positions. Market makers are outside scope of the ban. The ban applies irrespective of the country of residence of the person trading, regardless of whether trading takes place in Spain or elsewhere, or on a regulated market or not. The ban will be in place for 3 months, until close of business on 23 October 2012.¹

Italy

The Italian ban applies to the shares of a number of banking and insurance companies listed by Consob, the Italian regulator.² It is scheduled to last until 6 p.m. on Friday 27 July and does not apply to market makers. The ban covers intra-day positions but excludes transactions in derivative instruments. The ban applies irrespective of where the trade takes place (including OTC trades and trades on MTFs) and irrespective of the jurisdiction in which the trade is carried out.

European Short-Selling Regulation

The pan-European Regulation on short selling and certain aspects of credit default swaps³ will apply from 1 November 2012. From this date, the European Securities and Markets Authority will have coordination powers in relation to emergency restrictions introduced by member states. Our full memorandum on this topic is available [here](#).

¹ For further detail please see the CNMV’s decision and FAQs on its website <http://www.cnmv.es/portal/AIDia/Comunicaciones.aspx>

² See notice (in Italian) at <http://www.consob.it/main/documenti/bollettino2012/d18283.htm>

³ Regulation (EU) No 236/2012

This memorandum is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

If you wish to receive more information on the topics covered in this publication, you may contact your regular Shearman & Sterling contact person or any of the following:

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