

March 18, 2020

# French Financial Markets Authority Announces Ban on Short Selling on All French Trading Venues

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## **AMF Takes Temporary Action to Prohibit Short Selling of All Publicly Traded Equity Securities on French Trading Venues in Response to Market Turmoil Related to COVID-19 Outbreak**

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### **SUMMARY**

On March 17, 2019, the French financial markets authority, the *Autorité des marchés financiers* (“AMF”), took emergency measures in light of recent market developments relating to the COVID-19 outbreak.<sup>1</sup> The first measure prohibits net short positions in relation to any equity securities traded on a French trading venue and for which the AMF is the competent authority for a 20-day period commencing at 12:00 a.m. CET on March 18, 2020.<sup>2</sup> The second measure extends the prohibition period to 30 days.<sup>3</sup> Those orders replace an emergency order temporarily banning net short positions in respect of a limited number of shares traded on certain French stock exchanges, which applied until the end of the trading day on March 17, 2020.<sup>4</sup>

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### **BAN ON NET SHORT POSITIONS**

The first emergency order relating to net short positions (the “Prohibition Order”) was taken by the Chairman of the AMF and prohibits all persons from taking a net short position, or increasing an existing net short position, on equity securities issued by issuers whose shares are admitted to trading on a French trading venue (regardless of the domiciliary jurisdiction of the issuer) and for which the AMF is the competent authority for purposes of Regulation (EU) No. 236/2012 of the European Parliament and of the Council of March 14, 2012 on short selling and certain aspects of credit default swaps (as amended, the “Short Selling Regulation”). The Prohibition Order provides for an exception for market making activities within the meaning of the Short Selling Regulation. For purposes of the Prohibition Order, “net short position” means the position remaining after deducting any long position that a person holds in relation to the issued share capital of an issuer from any short position that such person holds

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in relation to that share capital; where “long position” and “short position” are defined in, and calculated in accordance with, the Short Selling Regulation.

In accordance with Article L. 421-16(II) of the French *Code monétaire et financier*, the board (*collège*) of the AMF decided to extend the 20-day prohibition period set forth in the Prohibition Order up to 30 days from March 17, 2020. Therefore, the Prohibition Order is effective at 12:00 a.m. on March 18, 2020 and is scheduled to terminate at 11:59 p.m. on April 16, 2020, unless further extended by the AMF. By law, the board of the AMF may extend an emergency order taken by the Chairman of the AMF under the Short Selling Regulation up to three months from the date of the initial order, or renew emergency measures taken under the Short Selling Regulation for a three-month period.<sup>5</sup>

Consistent with the provisions of the Short Selling Regulation, the European Securities and Markets Authority (“ESMA”) issued a positive opinion on March 18, 2020 on the measures set forth in the Prohibition Order.<sup>6</sup>

### SHORT SELLING BANS IN OTHER EU JURISDICTIONS

Similar short selling bans have recently been put in place in other EU jurisdictions, such as Italy and Spain, and other EU countries can be expected to follow suit. For instance, in Italy, the Italian *Commissione Nazionale per le Società e la Borsa* (“CONSOB”) issued a similar prohibition on net short positions, which shall apply for a three-month period from March 18, 2020.<sup>7</sup> In Spain, the *Comisión Nacional del Mercado de Valores* (“CNMV”) decided to adopt a similar prohibition for a one-month period, which entered into force on March 17, 2020 before market opening and will expire on April 17, 2020, after market close.<sup>8</sup>

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<sup>1</sup> See AMF’s press release, dated March 17, 2020, <https://www.amf-france.org/en/news-publications/news-releases/amf-news-releases/amf-announces-short-selling-ban-one-month>

<sup>2</sup> See the decision of the Chairman of the AMF, dated March 17, 2020, <https://www.amf-france.org/en/regulation/exceptional-intervention-measures/decision-17-march-2020-regarding-ban-net-short-positions>

<sup>3</sup> See the decision of the Board of the AMF, dated March 17, 2017, <https://www.amf-france.org/sites/default/files/2020-03/20200317-decision-du-college-art-20-clean-veng.pdf>

<sup>4</sup> See the decision of the Chairman of the AMF, dated March 17, 2020, [https://www.amf-france.org/sites/default/files/2020-03/20-03-16-decision-amf-article-23-en\\_0.pdf](https://www.amf-france.org/sites/default/files/2020-03/20-03-16-decision-amf-article-23-en_0.pdf)

<sup>5</sup> French *Code monétaire et financier*, Art. L. 421-16(II).

<sup>6</sup> See ESMA’s opinion, dated March 18, 2020, [https://www.esma.europa.eu/sites/default/files/library/esma70-155-9581\\_opinion\\_on\\_amf\\_emergency\\_measure\\_under\\_the\\_ssr\\_all\\_shares-tc.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-155-9581_opinion_on_amf_emergency_measure_under_the_ssr_all_shares-tc.pdf)

<sup>7</sup> See CONSOB’s press release, dated March 17, 2020, [http://www.consob.it/web/consob-and-its-activities/news-in-detail/-/asset\\_publisher/kcxlUuOyjO9x/content/press-release-17-march-2020-hp/718268](http://www.consob.it/web/consob-and-its-activities/news-in-detail/-/asset_publisher/kcxlUuOyjO9x/content/press-release-17-march-2020-hp/718268) and related ESMA opinion, dated March 17, 2020, [https://www.esma.europa.eu/sites/default/files/library/esma70-155-9565\\_opinion\\_on\\_consob\\_emergency\\_measure\\_under\\_the\\_ssr\\_all\\_shares.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-155-9565_opinion_on_consob_emergency_measure_under_the_ssr_all_shares.pdf)

<sup>8</sup> See CNMV’s press release, dated March 16, 2020, <http://cnmv.es/portal/verDoc.axd?t=%7B5baf609e-ed4e-4dad-a697-80c55548e181%7D>, and related ESMA opinion, dated March 17, 2020, [https://www.esma.europa.eu/sites/default/files/library/esma70-155-9556\\_opinion\\_on\\_cnmv\\_emergency\\_measure\\_under\\_the\\_ssr.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-155-9556_opinion_on_cnmv_emergency_measure_under_the_ssr.pdf)

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