

# Summer Round-up International Regulatory Update

This end of summer special edition of the International Regulatory Update reviews the most significant regulatory developments that occurred during July and August. Despite initial expectations of a busy summer, numerous regulatory initiatives were shifted to the autumn, particularly at the EU level. Nevertheless, we did see the launch of proposed revisions to the Capital Requirements Directive (CRD 4), primarily to implement Basel III, in the form of a directive a regulation and the re-introduction of short selling restrictions in response to ongoing market turmoil.

As we prepare for autumn, we are anticipating the MiFID and Market Abuse Directive reviews and a new proposal on CSDs. Whilst the Polish EU Council Presidency enters the second phase of its work programme, it is seeking to finalise the negotiations on the OTC derivatives regulation and to reach agreement on the proposed short selling regulation before handing over to Denmark. Meanwhile, in the coming months we will see further implementation of the Dodd-Frank reforms in the US with upcoming proposals expected on rules on corporate governance and disclosure, including executive compensation, and the adoption of rules on derivatives trade reporting and the mandatory clearing of security-based swaps.

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## EUROPEAN UNION

### CRD 4: European Commission legislative proposal published

On 20 July, the European Commission published its legislative proposal for a new Capital Requirements Directive (CRD 4) to implement the Basel III reforms into EU law. The proposal comprises a directive and a three-part regulation.

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The proposed directive covers areas where EU provisions need to be transposed by Member States in a way suitable to their own environment. The proposal introduces new provisions on enhanced governance, sanctions, capital buffers, and enhanced supervision. In addition, the proposal requires that all banks' investment decisions are based not only on credit ratings but also on their own internal credit opinion. The proposal also requires that banks with a material number of exposures in a given portfolio develop internal ratings for that portfolio, instead of relying on external ratings for the calculation of their capital requirements.

The proposed regulation, amongst other things, increases the amount of own funds banks need to hold, as well as the quality of those funds, and harmonises the deductions from own funds in order to determine the amount of regulatory capital that is prudent to recognise for regulatory purposes. In addition, the regulation introduces a Liquidity Coverage Ratio (LCR), the exact composition and calibration of which will be determined after an observation and review period in 2015. The regulation also proposes that a leverage ratio be subject to supervisory review in order to limit an excessive build-up of leverage on credit institutions' and investment firms' balance sheets. The Commission has indicated that the implications of a leverage ratio will be closely monitored prior to its possible move to a binding requirement on 1 January 2018.

[Proposed Directive](#)  
[Proposed Regulation – Part I](#)  
[Proposed Regulation – Part II](#)  
[Proposed Regulation – Part III](#)  
[FAQs](#)

### **AIFMD: ESMA consultations on implementing measures and future rules for AIFMs and treatment of third country entities published**

On 13 July, ESMA published a consultation paper setting out its draft technical advice to the European Commission on possible implementing measures on the AIFM Directive. The draft technical advice covers: (1) general provision for managers, authorisation and operating conditions; (2) governance of alternative investment funds' depositaries, including proposals on depositary liability; and (3) transparency requirements and leverage.

ESMA published a second consultation paper on 23 August, setting out its proposals for the detailed rules on supervision and third country entities underlying the AIFMD. The proposals cover three areas: (1) supervisory co-operation and exchange of information; (2) delegation of portfolio or risk management functions to third country entities; and (3) assessment of equivalence of third country depositary frameworks.

Comments on the July consultation were due by 13 September and comments on the August consultation are due by 23 September. ESMA must deliver its final advice to the Commission by 16 November 2011.

[13 July consultation paper](#)  
[23 August consultation](#)

### **EU budget 2014 – 2020: Commission proposal for a financial transactions tax published**

On 29 June, the European Commission published a communication, 'A Budget for Europe 2020', which sets out its proposed multiannual financial framework (MFF) for 2014 to 2020. Amongst other things, the Commission is proposing a new own resource system for the EU, based on a financial transactions tax and a new VAT resource, from 1 January 2018 at the latest. These new own resources would partially finance the EU budget and could fully replace the existing VAT-based own resource, which the Commission proposes to eliminate, and reduce the scale of the gross national income-based resource.

The communication notes that financial transaction taxation exists at a national level in some Member States, but argues that action at the EU level could prove more effective and efficient, and could help reduce fragmentation of the internal market. The Commission intends to present a proposal for an EU financial transactions tax in autumn 2011.

[Financial Framework 2014 – 2020 page](#)  
[Communication – Part I](#)  
[Communication – Part II](#)  
[Staff working paper](#)  
[Proposed regulation laying down the MFF for 2014 to 2020](#)  
[Proposed decision on the system of own resources of the EU](#)

## INTERNATIONAL

### **FSB and Basel Committee consultations on global systemically important financial institutions published**

On 19 July, the Financial Stability Board (FSB) and the Basel Committee on Banking Supervision (BCBS) launched a consultation on two documents setting out proposed measures to address systemic and moral hazard risks posed by systemically important financial institutions (SIFIs).

The first consultation paper, 'Effective Resolution of Systemically Important Financial Institutions', set out a package of proposed policy measures to improve the capacity of authorities to resolve failing SIFIs. Responses were due by 2 September 2011.

The second consultation paper, 'Global systemically important banks – Assessment methodology and the additional loss absorbency requirement', set out: (1) a methodology for assessing the global systemic importance of banks; (2) the magnitude of added loss absorbency that globally systemic banks should have; and (3) the proposed arrangements by which these requirements will be phased in. Responses were due by 26 August 2011.

[Effective Resolution of Systemically Important Financial Institutions](#)  
[Global systemically important banks – Assessment methodology and the additional loss absorbency requirement](#)

## UNITED KINGDOM

### **Financial Conduct Authority: Treasury Committee inquiry into accountability launched whilst FSA consultation on approach to regulation published**

On 18 August, the Treasury Committee launched an inquiry into the accountability of the new Financial Conduct Authority (FCA). The FCA is scheduled to take over responsibility for conduct of business regulation from the FSA by the end of 2012. Amongst other things, the Committee's inquiry is scrutinising the remit and powers of the FCA to facilitate competition and choice in financial services.

Previously, on 27 June, the FSA published a document setting out its initial thinking on how the FCA will approach the delivery of its objectives. The document set out: (1) the scope of the FCA; (2) the FCA's objectives and powers, as proposed by the government; (3) the regulatory approach which the FCA expects to follow in discharging its responsibilities; (4) how the FCA plans to discharge its various functions, including supervision, policy-making, authorisation, and enforcement; (5) the FCA's plans to coordinate with other regulatory authorities, in the UK and internationally; and (6) the next steps in implementing the FCA's operating model. Comments were due by 1 September 2011.

The FSA held a conference on 28 June to mark the launch of the consultation at which both Hector Sants, FSA Chief Executive, and Margaret Cole, Interim Managing Director of the conduct business unit, gave speeches.

Hector Sants argued that the FCA needs to: (1) deliver a more proactive style of regulation than its predecessor, at the core of which will be early intervention both in respect of products and selling processes; (2) deliver meaningful choice and effective competition; (3) deliver a credible deterrence agenda; (4) deliver a more effective redress process; (5) ensure consumers have the right information to make informed judgements; and (6) act in a more transparent and accountable manner. However, Mr. Sants acknowledged that a mandate of this nature will require the FCA to have more resources and powers than the FSA. He also acknowledged that an approach of early intervention will necessarily run the risk of reducing innovation and constraining individual freedom of choice.

Margaret Cole emphasised the need for close co-ordination between the FCA and the other new regulatory bodies, including the Prudential Regulation Authority (PRA), particularly where a firm is dual-regulated. She also stressed that the FCA will need to engage effectively at an early stage in EU negotiations to influence the outcomes. Ms. Cole highlighted the FCA's new powers in product intervention, including the power to direct firms to withdraw or amend misleading financial promotions with immediate effect, and to publish the fact that a warning notice in relation to a disciplinary matter has been issued. She also stated that the FCA will require firms to publish more information on their activities to improve market discipline. Finally, she noted that the FCA will need to consider the interactions and linkages across the financial value chain where risks are transmitted between wholesale and retail customers. In particular, she indicated that the FCA will look at intervention further up the value chain, targeted at product governance.

[Treasury Committee inquiry](#)  
[FSA approach](#)

[Hector Sants speech](#)  
[Margaret Cole speech](#)

### **Recovery and resolution plans: FSA consultation published**

On 9 August, the FSA published a consultation paper (CP11/16) setting out a proposed requirement for certain financial services firms to prepare and maintain recovery and resolution plans.

Under the proposals, banks and large investment firms in the UK must develop recovery plans in coordination with the FSA, which would be required to have the following features: (1) a sufficient number of material and credible options to cope with a range of scenarios including both distinctive and market wide stresses; (2) options which address capital shortfalls, liquidity pressures and profitability issues and aim to return the firm to a stable and sustainable position; (3) options that the firm would not consider in less severe circumstances, such as disposals of the whole business, parts of the businesses or group entities, raising equity capital which has not been planned for in the firm's business plan, complete elimination of dividends and variable remuneration, and debt exchanges and other liability management actions; (4) appropriate governance processes including triggers and procedures to ensure timely implementation of recovery options in a range of stress situations; and (5) plans should be reviewed at least annually and approved by the Board.

In addition, the consultation paper proposes resolution plans, which relate to how a firm will wind-down if it fails and are intended to enable the authorities to assess the potential effect on financial stability and whether this is acceptable. The resolution data and analysis to be provided by firms is intended to identify significant barriers to resolution, to facilitate the effective use of the powers under the Special Resolution Regime (SRR) and reduce the risk that taxpayers' funds will be required to support a failing firm. The information provided to the authorities will be used to prepare a strategic plan. Resolution plans must also be reviewed by the firm at least annually and updated to reflect any material developments in a firm's business.

All UK incorporated deposit-takers, subsidiaries and significant investment firms with assets exceeding GBP 15 billion will need to implement recovery and resolution plans. Branches of overseas entities will not be subject to the rules, but arrangements for resolving branches will be pursued bilaterally with the home state regulator and through the relevant Crisis Management Groups or Cross Border Stability Groups.

The consultation paper also sets out proposed requirements relating to investment business client money and custody assets (CMA), known as the CASS Resolution Pack (CASS RP). The CASS RP aims to promote the speedier return of CMA to clients once a firm has failed, by ensuring that CMA information would be readily accessible to the Insolvency Practitioner appointed to that failed firm. The CASS RP proposals apply to all firms subject to CASS 6 or 7 due to their holding of (investment business only) CMA. Finally, the paper includes a discussion of different approaches to removing barriers to resolution and enhancing resolvability, including the resolution of trading books, enhancing the resolution toolkit and bail-in.

Comments are due by 9 November 2011. The FSA intends to issue a policy statement around the end of 2011, with an expectation that some firms will have recovery and resolution plans in place by 30 June 2012.

[Consultation Paper \(CP11/16\)](#)

### **Retail Distribution Review: new FSA rules for platforms published**

On 1 August, the FSA published a policy statement (PS11/09), which reports on the main issues arising from its November 2010 consultation paper (CP10/29) on platform services in the context of delivering the Retail Distribution Review (RDR) and sets out the FSA's final rules in this area.

Amongst other things, the new rules require:

- platforms and other nominee companies to transfer, within a reasonable time and in an efficient manner, assets held on behalf of customers to another person, when requested;
- platforms and other nominees to pass on fund information to the end investor;
- investment adviser firms using a platform service for the purposes of making a personal recommendation, or arranging the purchase of retail investment products for retail clients, to take reasonable steps to ensure that they use platforms services that present their retail investment products without bias;
- platforms to disclose to professional and retail clients any fees or commission they arrange to accept from third parties in relation to retail investment products – these should be disclosed in advance of the platform providing services to those clients; and

- nominees to respond to information requests by authorised fund managers for liquidity purposes.

The rules also extend the application of the RDR rules on facilitating payment of adviser charges to facilitation through platforms.

In respect of incentives, the FSA has decided that it would be desirable, in principle, to ban both cash rebates from product providers to investors and product provider payments to platforms. However, given the potential impact of these changes on the business models of platform service providers, the FSA has concluded that further research is needed to ensure that the implications for consumers are fully understood before proposing new rules.

[Policy statement \(PS11/09\)](#)

[Consultation paper \(CP10/29\)](#)

## SHORT SELLING UPDATE

### Short selling: ESMA call for harmonised regulatory action in the EU; EU Council report on outcome of European Parliament proceedings

On 11 August, ESMA issued a statement promoting harmonised regulatory action on short selling in the EU. Whilst acknowledging that short selling can be a valid trading strategy, ESMA has taken the view that it is abusive when used in combination with spreading false market rumours. ESMA emphasised the requirements in the Market Abuse Directive referring to the prohibition of the dissemination of information which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumours and false or misleading news.

ESMA's statement further indicated that, in light of recent market volatility, it has been actively monitoring the European financial markets and has been exchanging information with national competent authorities on the functioning of the markets and the market infrastructure, as well as coordinating discussions between the national competent authorities, specifically on the content and timing of any possible additional measures necessary to maintain orderly markets.

ESMA noted that Belgium, France, Italy and Spain introduced new bans on short selling or on short positions and that these measures have been aligned as far as possible in the absence of a common EU legal framework in the area of short selling and given the different national legal bases on which such measures can be taken. ESMA also published an updated table of measures (updated again as of 25 August) taken by its Members in relation to short selling in financial markets to reflect the latest bans.

Earlier in the summer, on 14 July, the EU Council published a report on the outcome of the European Parliament's debate in relation to the Commission's proposal for a regulation on short selling and certain aspects of credit default swaps, which took place between 4 and 7 July 2011. The Parliament decided to postpone its vote on the legislative resolution to a later session in the autumn.

[Statement](#)

[Table of measures](#)

[Report](#)

### FSMA short selling rules introduced and modified

On 11 August, the Financial Services and Markets Authority (FSMA) modified the rules governing short selling of financial shares.

The Royal Decree of 23 September 2008 introduced measures relating to uncovered transactions (in shares or derivatives) executed on Euronext Brussels. Those measures contain a ban on uncovered transactions ('naked shorting') and an obligation to publish any net economic short position in excess of 0.25% of the share capital of a financial institution to which those measures apply. Effective from 12 August, the FSMA extended the notion of 'uncovered transactions' so that coverage with borrowed shares can no longer be considered full coverage. As a result, it is no longer merely 'naked shorting' that is prohibited, but also 'covered shorting'. It is therefore prohibited to take a net economic short position by any means whatsoever, or to extend such a position to the shares of a financial institution referred to in the Royal Decree of 23 September 2008.

The FSMA indicated that existing net economic short positions do not fall within the scope of this ban, but that they may not be increased. The existing disclosure obligations remain in force, including for these positions. The decision to take these measures was made by the FSMA in light of current financial market volatility and to ensure consistency with the actions of other regulators in the Euronext zone. One of the stated aims of the new



measure is to limit the possibility of profits being made by disseminating misleading information. The measure is also intended to ensure a uniform approach in this area, given the close inter-linkage between some European financial markets.

On 25 August, the FSMA published revised rules on the short selling ban, in the form of an update to its FAQs. This update extended the scope of the ban, which now prohibits generally any net short position, whether achieved through short sales properly speaking or through derivatives, index trades or otherwise.

[Press release \(English\)](#)

[Press release \(French\)](#)

[Press release \(Dutch\)](#)

[FAQs \(English\)](#)

### **AMF ban on taking net short positions in French financial sector securities introduced and renewed**

On 11 August l'Autorité des marchés financiers / the Financial Markets Authority (AMF) placed a ban on creating any net short position or increasing any existing net short position, including intraday, in the equity shares or securities giving access to the capital of certain credit institutions and insurance companies, as specified in a list published by the AMF. The ban applied to any natural or legal person, French or foreign, regardless of whether or not trading takes place in France or in another country, or on a regulated market. An exemption applied for financial intermediaries acting as market makers or liquidity providers in certain circumstances. The decision entered into force at 10:45 pm on 11 August and was set to remain in effect for a period of 15 days.

The AMF subsequently published several updates to its FAQs in relation to the ban. On 12 August, the FAQs were updated to clarify the scope of the exemption given to market makers and liquidity providers. On 18 August, the FAQs were updated to clarify the conditions for handling net short positions taken through expiring derivatives and the exception relating to market making or liquidity provision. In addition, on 23 August, the AMF published a further updated set of FAQs for the purposes of: (1) adapting the methods for calculating a net short position by including convertible bonds therein; and (2) specifying the conditions for implementing the decision in relation to investments in funds replicating the reverse return of an index whose basket includes one or more of the securities concerned (e.g., reverse ETF). The FAQs were updated again on 5 September to further specify the exemptions that are applicable to market makers and liquidity providers, and again on 14 September to provide for the conditions under which investors may, in the event of the rebalancing of an index, sell the securities concerned by such a rebalancing.

On 25 August, the AMF renewed its ban until further notice and for a period that cannot go beyond 11 November 2011. The AMF intends to continue monitoring the markets and, before the end of September and in consultation with other European regulators, to assess the opportunity to lift the temporary ban. The AMF is aiming to lift the ban as soon as market conditions allow and, to the extent possible, in a coordinated way.

[11 August press release \(English\)](#)

[11 August press release \(French\)](#)

[18 August press release relating to adjustment \(English\)](#)

[25 August press release renewing ban \(English\)](#)

[Consolidated FAQs \(English\)](#)

[Consolidated FAQs \(French\)](#)

### **HCMC two-month ban on short selling introduced – will be reviewed during September 2011**

On 8 August, the Hellenic Capital Market Commission (HCMC) decided to ban short selling of all shares listed in the Athens Exchange, irrespective of the venue where the transaction is executed (regulated markets, multilateral trading facilities (MTFs), or over-the-counter). The ban took effect on 9 August and will remain in force until 7 October.

The ban applies to both naked and covered short sales, including sales which are covered with subsequent intraday purchases. It also applies to units of exchange traded funds (ETFs) admitted to trading in the Athens Exchange, as well as all depository receipts representing shares listed in the Athens Exchange. The HCMC indicated that obtaining or increasing short exposure through listed or OTC derivatives is not prohibited.

In addition, the HCMC indicated that the exemption for market makers applies to:

- all registered market makers on the spot equity market (shares, depository receipts) of a regulated market or an MTF for transactions they carry out in order to comply with their market making duties;

- all registered market makers of ETFs admitted to trading in the Athens Exchange for transactions they carry out in ETFs in order to comply with their market making duties; and
- all registered market makers on the derivatives market of or of ETFs listed in a regulated market or an MTF for transactions they carry out in shares which are underlying instruments or constitute the underlying index of the derivative instruments or ETFs, for hedging positions taken in the respective derivatives market or ETFs.

The HCMC subsequently announced on 25 August its intention to reassess the prohibition of short selling of shares listed in the Athens Exchange before the end of September 2011 and in consultation with other European regulators, taking into account in particular the conditions prevailing in the Greek market as well as in the markets in general. The HCMC indicated that it will follow a similar approach as other European supervisors with respect to extending the duration of or lifting the short selling ban or to taking additional measures, to the extent that this is warranted by market conditions.

[8 August decision \(unofficial translation\)](#)

[8 August notice](#)

[9 August guidance](#)

[25 August announcement](#)

### **CONSOB notification requirements for net short positions introduced followed by restrictive measures on net short positions**

On 10 July, the Commissione Nazionale per le Società e la Borsa (CONSOB) issued Resolution No. 17862, which introduces notification requirements affecting net short positions on shares listed on an Italian regulated market (that market being the main market for such shares). These notification requirements entered into force on 11 July and originally applied until 9 September 2011.

Under Resolution No. 17862, any net short position on such shares were to be communicated to CONSOB upon crossing above or below certain thresholds, namely 0.2% of the share capital of the issuer and any subsequent crossing of 0.1% above or below this threshold. In addition, net short positions had to be calculated at entity level but also aggregated across funds of the same strategy managed by a single asset manager. Resolution No. 17862 stated that these notification requirements do not apply to entities acting as market makers, 'specialists' as defined by the rules of the Italian Stock Exchange, or liquidity providers. The first notifications were due by 12 July 2011 with respect to net short positions on shares as of 11 July 2011 (based on market closure data).

On 12 August, (CONSOB) issued Resolution No. 17902 prohibiting the holding of net short positions, or the increase of existing net short positions, including intraday, in relation to the share capital of certain issuers operating in the financial markets, as identified in a list published by CONSOB. The ban applied to individuals and other types of legal person or entity (for example, corporates), whether Italian or foreign. An exemption was created for activities carried out by market makers and specialists (as defined in the rules of the regulated markets organised and managed by Borsa Italiana S.p.A) acting in the exercise of their own functions, and for intermediaries acting in the performance of a liquidity contract.

CONSOB indicated that, in light of current market volatility, it deemed the existing notification requirements in respect of net short positions set out in its previous resolution No. 17862 issued on 10 July 2011 no longer sufficient to ensure market stability, hence the introduction of the ban. The restrictive measures provided by resolution No. 17902 entered into force at 9.00 a.m. on 12 August 2011 and were originally set to remain in force for a period of 15 days.

On 18 August, CONSOB published an updated set of FAQs addressing, amongst other things:

- the use of index derivatives strictly for hedging purposes, where the underlying index comprises banned components;
- the treatment of orders not yet executed at the date the resolution came into force;
- the treatment of net short positions that fall below the reporting threshold introduced by CONSOB resolution No. 17862; and
- clarifications on the scope of the ban affecting trades executed in foreign trading venues.

On 25 August, CONSOB extended the deadline of its resolution no. 17902 until 30 September 2011. CONSOB also extended the deadline of its resolution no. 17862 issued on 10 July 2011, which contained rules on reporting

net short position on shares to CONSOB, until 14 October 2011. CONSOB intends to continue monitoring the markets and, if market conditions allow and in consultation with other European regulators, to assess whether the temporary ban can be lifted. CONSOB has indicated that this assessment will take place in the course of September 2011.

On 26 August, CONSOB published an updated version of its FAQs on Resolution No. 17902 on restrictive measures on net short positions, as extended by Resolution No. 17911. In addition, CONSOB updated the FAQs on the reporting obligations introduced by Resolution No. 17862. Amongst other things, the FAQs provide additional clarification on the use of exchange-traded funds (ETFs) and financial instruments other than derivatives.

[Resolution No. 17862 \(English\)](#)  
[10 July press release \(English\)](#)  
[Resolution No. 17902 \(English\)](#)  
[12 August press release \(English\)](#)  
[25 August deadline extension](#)  
[Consolidated FAQs on resolution 17902 \(English\)](#)  
[Resolution No. 17911 \(Italian\)](#)

### **AFM refrains from introducing further measures against short selling**

On 12 August, the Netherlands Authority for the Financial Markets (AFM) issued a statement indicating that, as of that date, it saw no reason to take further measures against short selling on the Dutch market and that it has discussed this view with the other securities regulators in Europe within ESMA. The statement noted that, in normal market circumstances, short selling plays a useful role in the price formation process, although selling strategies together with the spreading of rumours may be regarded as prohibited market manipulation in extraordinary circumstances.

On the basis of all the information available, the AFM concluded that there was no need to introduce a short selling prohibition in the Netherlands, but it intends to monitor the developments on the financial markets closely in the interest of fair and transparent financial markets. The statement also highlighted that, since 2009, a regulation applies which requires that net short positions of more than 0.25% be reported to the AFM.

[Statement \(English\)](#)  
[Statement \(Dutch\)](#)

### **CNMV temporary preventive measures on net short positions introduced and extended**

On 11 August, the National Securities Market Commission (CNMV) agreed to ban any legal or natural person from entering into transactions which might constitute or increase a net short position on Spanish financial stocks. The CNMV published a list of the stocks affected by the agreement. The prohibition entered into force on 11 August 2011 and was originally effective for 15 days.

The CNMV stated that the ban affects any trade on equities or indices, including cash equities transactions, derivatives in regulated markets or OTC derivatives, that has the effect of creating a net short position or increasing an existing one, including on an intraday basis. The CNMV indicated that 'net short position' means any position resulting in a positive economic exposure to falls in the price of the stock.

An exemption applies for positions arising from market making activities. For this purpose, the CNMV has indicated that market making covers investment firms that incur in a transitory (especially intraday) net short position either as: (1) a response or a hedge to a client order; or (2) a result of quoting bid and ask prices on a continuous way as market members, with or without a public commitment with the issuer or the market.

On 19 August, the CNMV published an updated set of FAQs in relation to its temporary measure on net short positions. The CNMV added FAQ number 8, which specifies that an investor may roll-over a short position in futures, taken before the temporary short position ban agreed by the CNMV, provided that the roll-over of future contracts does not create a new net short position or increase a previous one. It has also added FAQ number 9, which indicates that an investor may compensate a long position in convertible bonds with a short position in the underlying shares, provided that the investor's delta adjusted net exposure would not be negative.

On 25 August, the CNMV extended the ban until 30 September 2011. The CNMV intends to continue monitoring the impact of the temporary measure and, in any event, before the end of September 2011 and in consultation with other European regulators, to assess the opportunity to lift the temporary ban. The CNMV aims to lift the ban as soon as market conditions allow and, to the extent possible, in a coordinated manner

[Link to 11 August statement, 19 August FAQs and 25 August extension \(English and Spanish\)](#)



## Japanese FSA implementation date for amended FIEL subordinate legislation on short selling connected to public offerings announced

On 26 August, the Financial Services Agency (FSA) announced that the amended Order for Enforcement of the Financial Instruments and Exchange Law and the amended Ordinance on Financial Instruments Business, etc. will be implemented on 1 December 2011. The amendments provide that an investor who accrues a short selling position of shares of a company after the company has announced a public offering of those shares must not settle his stock borrowing position involved in the short selling position with shares acquired through the public offering. Securities companies are required to notify their clients of the above regulations in writing prior to their solicitation.

[Announcement \(Japanese\)](#)

## Korean regulator temporary ban on short selling imposed

On 9 August, the Financial Services Commission (FSC) announced its decision to temporarily ban short selling of all listed stocks in the Korea Exchange (KRX) and Kosdaq markets for three months, from 10 August 2011 to 9 November 2011. In addition, during this period, the FSC intends to temporarily ease restrictions on the amount of shares that issuers can repurchase per day. The FSC indicated that it is imposing the ban in response to growing concerns over the possibility of economic recession in the international markets and increased short selling in the falling markets, including the Korean securities market.

[Announcement \(English\)](#)

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