

ALERTS

EU Shorting Threshold Transition from 28 to 31 January 2022

January 27, 2022

The European Securities and Markets Authority (“ESMA”) has published guidance on how to treat net short positions in EU-listed shares in anticipation of the transition to the lower 0.1% threshold.

As stated in our previous Alert,^[1] with effect from 31 January 2022, the initial threshold for notification of net short positions in EU-listed companies will be lowered from 0.2% to 0.1% of a company’s issued share capital. ESMA has now confirmed that the last day of application of the old reporting threshold (0.2%) will be in relation to positions held on Friday 28 January 2022, with the Friday’s net short positions to be reported to the EU’s relevant competent authorities by 3:30 pm (local time) on Monday 31 January 2022.

The first day on which the 0.1% position reports are due is Tuesday 1 February 2022. By way of example, net short positions must be reported on Tuesday if the net short position was:

1. i) less than 0.2% (including no position at all) at the end of Friday 28 January and 0.1% or more at the end of Monday 31 January; or
2. ii) 0.2% or more on Friday 28 January but subsequently reduced to 0.1% or less on Monday 31 January. This would be the case even if at the end of Monday the position is under 0.1%, in which case the report would have to indicate that the position crossed the 0.1% threshold downwards.

ESMA's statement here includes a number of other illustrative examples for different types of scenarios.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

[1] <https://www.srz.com/resources/eu-shorting-threshold-lowered-to-0-1-from-31-january-2022.html>

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