

**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,<sup>[1]</sup> 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.

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

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