European Securities and Markets Authority

16 September 2020
ESMA70-155-11072

ESMA DECISION

of 16 September 2020

renewing the temporary requirement to natural or legal persons who have net short positions to lower the notification thresholds of net short positions in relation to the issued share capital of companies whose shares are admitted to trading on a regulated market to notify the competent authorities above a certain threshold in accordance with point (a) of Article 28(1) of Regulation (EU) No 236/2012 of the European Parliament and of the Council

THE EUROPEAN SECURITIES AND MARKETS AUTHORITY BOARD OF SUPERVISORS,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Agreement on the European Economic Area, in particular Annex IX thereof,

Having regard to Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC([1]), and in particular Article 9(5), 43(1) and 44(1) thereof,

Having regard to Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps([2]), and in particular Article 28(1) thereof,

Having regard to Commission Delegated Regulation (EU) No 918/2012 of 5 July 2012 supplementing Regulation (EU) No 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps with regards to definitions, the calculation of net short positions, covered sovereign credit default swaps, notification thresholds, liquidity thresholds for suspending restrictions, significant falls in the value of financial instruments and adverse events([3]), and in particular Article 24 thereof,

Having regard to the Decision (EU) 2020/525 of 16 March 2020[4] of the European Securities and Markets Authority (ESMA), requiring natural or legal persons who have net short positions to temporarily lower the notification thresholds of net short positions in relation to the issued share capital of companies whose shares are admitted to trading on a regulated market above a certain threshold to notify the competent authorities in accordance with point (a) of Article 28(1) of Regulation (EU) No 236/2012,

Having regard to the Decision (EU) 2020/1123 of 10 June 2020[5] of the European Securities and Markets Authority (ESMA), renewing the temporary requirement to natural or legal persons who have net short positions to temporarily lower the notification thresholds of net short positions in relation to the issued share capital of companies whose shares are admitted to trading on a regulated market to notify the competent authorities above a certain threshold in accordance with point (a) of Article 28(1) of Regulation (EU) No 236/2012,

[1] OJ L 331, 15.12.2010, p. 84.

[2] OJ L 86, 24.3.2012, p. 1.

[3] OJ L 274, 9.10.2012, p. 1.

[4] OJ L 116, 15.4.2020, p. 5–13.

[5] OJ L 245, 30.7.2020, p. 17–30.

Whereas:

1. Introduction

(1) With Decision (EU) 2020/525, ESMA required natural or legal persons with net short positions in relation to the issued share capital of companies whose shares are admitted to trading on a regulated market to notify the competent authorities details of any such position reaching, exceeding or falling below 0.1% of the issued share capital in accordance with point (a) of Article 28(1) of Regulation (EU) No 236/2012.

(2) The measure imposed by the ESMA Decision (EU) 2020/525 addressed the necessity for national competent authorities and ESMA to be able to monitor the net short positions that market participants have entered into in relation to shares admitted to trading on a regulated market, on account of exceptional circumstances present in financial markets.

(3) With the Decision (EU) 2020/1123 of 10 June 2020, ESMA renewed the temporary requirement since, notwithstanding a partial recovery of the EU financial markets from the losses registered since the outbreak of the pandemic, the outlook for a future recovery remained uncertain and threats to the orderly functioning and integrity of financial markets and the stability of the financial system were still present.

(4) In accordance with Article 28(10) of Regulation (EU) No No 236/2012, ESMA has to review this measure at appropriate intervals and at least every three months.

(5) ESMA performed this review based on an analysis of performance indicators, including prices, volatility, credit default swaps spread indices, as well as the evolution of net short positions, especially those between 0.1 and 0.2%. Pursuant to the conducted analysis, ESMA has decided that it should renew the measure for an additional three months.

2. Ability of the measure to address relevant threats and cross-border implications (Article 28(2)(a) of Regulation (EU) No 236/2012)

a. Threat to the orderly functioning and integrity of the financial markets

(6) The COVID-19 pandemic continues to have an adverse impact on the real economy with the overall outlook for a future recovery remaining uncertain, particularly in light of recent developments in the EU and beyond. ESMA notes that the number of COVID-19 cases has significantly increased in several jurisdictions over the last few weeks, raising concerns about the possibility of a second wave of COVID-19 infections exacerbating the uncertainty of any future outlook.

(7) Equity markets in the EU, as demonstrated by the Eurostoxx 50 Index, lost 14% in the period between the 20th of February and the 3rd of September 2020, compared to a loss of value of 13% between the 20th of February and the 4th of June [Figure 1]. There was a significant improvement of the Eurostoxx 50 Index with respect to the levels reached in March (where the drop was of approximately 30%, compared to February 2020, as indicated in ESMA Decision (EU) 2020/525) but without recovering to pre-COVID-19 levels.

(8) The volatility measured by the VSTOXX[6] also remains relatively elevated compared to February 2020. The level measured in September (+15%) is slightly higher than the one in June (+13%). The same is also true, and even to a larger extent, for the VIX[7] (+18% in September against +9% in June) [Figure 1] and [Figure 2].

(9) The level of credit default swaps (CDS) has decreased between 17% and 28% from 4 June to 3 September [Figure 1]. However, to better understand the informative power of CDSs at this moment, the data has to be assessed in the context of the European Central Bank's (ECB) decision on the Pandemic Emergency Purchase Programme (PEPP). From the beginning of March, the CDS spreads started to be highly volatile and indicative of a high financial risk. The renewal by ESMA of the decision (EU) 2020/525, based on data up to 4 June, was also based on the fact that CDS spreads were high and volatile at that time and were considered as an indication of the perception of risk in the market.

(10) However, the increase of the PEPP by a further EUR 600 billion decided on 4 June brought the ECB's total announced monetary stimulus to EUR 1.35 trillion, reducing the informative value of CDS spreads in relation to the risk perception of the market.

(11) Similar considerations can be made in relation to the informative value of the sovereign bond markets, which, as in the case of CDS spreads, are affected by the monetary policy of the central banks. As it appears in [Figure 1], the 10Y government bonds yields of DE, FR, GB and IT show a decrease with respect to June levels on average by 22 basis points.

(12) As a consequence, ESMA considers that the evolution of stock markets, which is significantly less impacted by the central banks' monetary policy, should provide better insights to the current level of risk in EU financial markets.

(13) Similar to the Eurostoxx 50, the STOXX EUROPE 800 excluding Switzerland Index lost approximately 17% since 20 February 2020, compared to a drop of 16% in June. The STOXX Europe Total Market Banks (ref. European banks) decreased by 37% since February, while in June the loss was of approximately 30%.

(14) As mentioned in ESMA's Report on Trends, Risks and Vulnerabilities No. 2 of September 2020 (TRV), in Q2 2020 there were signs of differentiation across sectors, affecting in particular credit institutions. As of end-June, EU airlines and banking sector indices were still 36% and 30%, respectively, below their early January levels. Furthermore, [Figure 3] shows that the banking and the insurance sectors have been rather stable since June, but the performance between 20 February and 3 September compared to the one between 20 February and 4 June shows a deterioration: -38% vs. -33% for the banking sector and -

[6] The VSTOXX measures the implied volatility based on the Eurostoxx 50 option prices.

[7] The VIX Index is calculated by using the midpoint of real-time S&P 500 Index (SPX) option bid/ask quotes.

21% vs. -20% for the insurance sector. On the contrary, the performance of the non-financial[8] sectors has improved to a small extent: -9% vs. -11%.

(15) The price recovery of certain sectors took place in the context of a further deteriorating macroeconomic environment and a deep and globally synchronized recession. As indicated in the TRV, the current apparent decoupling of financial market performance from underlying economic activity raises a question about the sustainability of the market rebound going forward.

(16) Considering the aggregated national or EU level, the price recovery does not seem to have materialised: [Figure 5] shows that price decreases are widespread across the Union, from June to September there were no significant improvements and the stock indices performance for 22 EU markets indicates that the drop from 20 February to 3 September was worse than the drop from 20 February to 4 June. Furthermore, the stock markets of 25 jurisdictions, compared to 24 in June, lost at least 10% of their value when comparing the prices of 3 September to those of 20 February 2020. Over the same period, the share prices of European credit institutions have lost between 10% and 59%, compared to losses in value between 9 and 48% recorded in the period from February to June.

(17) The percentage of shares with a net short position between 0.1 and 0.2% steadily increased over the period from 16 March until 11 June 2020 and then remained stable until 4 September 2020[9] at an average of 13% over the total net short positions [Figure 6]. Furthermore, lower reporting threshold had demonstrated that, in some coutries, net short positions between 0.1% and 0.2% represented up to approxomately 50% of the total positions reported. In conclusion, the percentage of net short positions between 0.1 and 0.2%, which had to be reported due to the temporary lower notification threshold, remains a relevant portion of the total net short positions and has strong informative value for regulators in the current context.

(18) Overall, significant price decreases in key sectors, relatively high volatility, the potential decoupling of financial market performance and underlying economic activity and a steadily high level of net short positions, coupled with the uncertainty about the evolution of the COVID-19 pandemic and its impact on the real economy, signal that the EU financial markets remain in a fragile state. Such state makes it more likely that short selling pressures could initiate or exacerbate negative developments in the coming months which, in turn, can negatively affect market confidence or the integrity of the price determination mechanism.

(19) ESMA therefore considers that the combination of the circumstances described above constitutes a serious threat to the orderly functioning and integrity of the financial markets.

[8] The non-financial sectors exclude the following sub-sectors: banks, insurance and financial services.

[9] The reports of the daily net short positions from Denmark are missing over the period 31 August – 4 September due to a technical issue.

b. Threat to the stability of the whole or part of the financial system in the Union

(20) As explained by the ECB in its Financial Stability Review[10], financial stability is a condition in which the financial system – which comprises financial intermediaries, markets and market infrastructures – is capable of withstanding shocks and the unravelling of financial imbalances.

(21) The COVID-19 pandemic continues to have a severe impact on the real economy in the Union. As reported in ESMA's TRV, notwithstanding the market rebound, the market environment remains fragile and ESMA sees, going forward, a "*prolonged period of risk to institutional and retail investors of further – possibly significant – market corrections and (…) very high risks across the whole of the ESMA remit*"[11]. In that respect, ESMA alerted the public to a potential decoupling of financial market performance and underlying economic activity.

(22) Section 2.a above contains further information on the performance of banking, insurance sectors and financial markets.

(23) These widespread price decreases have put the majority of EU shares across all sectors into a situation of fragility in which further price declines not triggered by additional fundamental information could have highly detrimental consequences.

(24) In the still uncertain situation, ESMA considers that substantial selling pressure and unusual volatility in the price of shares could be triggered by different factors, including by an increasing number of market participants engaging in short selling and building up significant net short positions.

(25) In particular, ESMA notes that the widespread price losses for credit institutions, which constituted one of the parameters for the renewal decision taken in June, have not improved. This indicates that credit institutions, which in certain cases are systemically important, remain potentially vulnerable to short selling strategies and to the building up of significant net short positions, regardless of whether these strategies and positions are supported by fundamental information.

(26) The risk remains that the accumulation of short selling strategies and the building up of significant net short positions could lead to disorderly downward price spirals for certain issuers, with potential spillover effects within the same Member State or across the EU, that in turn, could eventually put the financial system of one or several Member States at risk.

(27) Notwithstanding the partial recovery observed in certain sectors of European financial markets, ESMA considers that the current market circumstances continue to seriously threaten the stability of the financial system in the Union.

[10] https://www.ecb.europa.eu/pub/financial-stability/fsr/html/ecb.fsr201911~facad0251f.en.html.

[11] TRV, Executive Summary, page 4.

(28) Within the limit of ESMA's mandate, the intended renewal of the measure obliges natural or legal persons who have a net short position in shares admitted to trading on a regulated market to report to national competent authorities at a lower threshold than the one established in Article 5 of Regulation (EU) 236/2012.

(29) The renewed measure should maintain the improved capacity of national competent authorities and ESMA to assess the evolving situation adequately, differentiate between market movements led by fundamental information from those that might be initiated or exacerbated by short selling and react if the integrity, orderly functioning and stability of the markets require more stringent actions.

c. Cross-border implications

(30) Another condition for ESMA to be able to take this measure is that the identified threats have cross-border implications.

(31) As described above, equity markets across the EU, considering both national and pan-European indices, have not fully recovered from the severe price decreases observed in March.

(32) Given the fact that the financial markets of most EU Member States are affected by these threats, albeit to different degrees, the cross border implications remain particularly serious as the interconnectedness of EU financial markets raise the likelihood of potential spillover or contagion effects across markets in case of short selling pressure.

(33) ESMA therefore considers that the threats to market integrity, orderly functioning and financial stability described above have cross-border implications. Due to the nature of the COVID-19 crisis, they actually have a pan-EU and global character.

3. No competent authority has taken measures to address the threat or one or more of the competent authorities have taken measures that do not adequately address the threat (Article 28(2)(b) of Regulation (EU) No 236/2012)

(34) Another condition for ESMA to adopt the measure in this Decision is that a competent authority or competent authorities have not taken action to address the threat or the actions that have been taken do not adequately address the threat.

(35) The market integrity, orderly functioning and financial stability concerns described in ESMA Decision 2020/525, which remain valid for this Decision, have led some national competent authorities to take national actions aimed at restricting the short selling of shares in Spain, France, Austria, Belgium, Greece and Italy[12] that expired on 18 May.

(36) Following the expiration or lifting of those temporary measures, no further measures based on Regulation (EU) 236/2012 have been taken in the EU, and as of the date of this Decision there are no such measures in force.

[12] In Italy the measure was lifted on 18 May.

(37) At the time of adoption of this Decision, no competent authorities have adopted measures to increase their visibility of the evolution of net short positions through the establishment of lower reporting thresholds, as they can rely on ESMA Decision (EU) 2020/1123 .

(38) The necessity of having increased visibility of net short positions is even more acute in a context where the above mentioned restrictions imposed under Article 20 of the Regulation (EU) No 236/2012 are no longer in place and the uncertainty in relation to the prolonged COVID-19 impact remains. As short selling and transactions with equivalent effect are no longer subject to other external constraints, national competent authorities across the EU need to be able to identify in advance whether net short positions are being built up to an extent which may lead to the threats to financial markets and financial stability described above manifesting themselves and being exacerbated by short selling pressure.

(39) In light of the abovementioned pan-EU threats, it remains evident that the information received by national competent authorities under the ordinary reporting threshold set out in Article 5(2) of Regulation (EU) No 236/2012 is not sufficient under the current stressed market conditions. ESMA considers that maintaining the lower reporting threshold should ensure that all national competent authorities across the EU and ESMA have the best possible data set available to monitor market trends and prepare themselves and ESMA to take further measures, if necessary.

4. Efficiency of the measure (Article 28(3)(a) of Regulation (EU) No 236/2012)

(40) ESMA also has to take into account to what extent the renewed measure significantly addresses the threats identified.

(41) ESMA considers that despite the extraordinary losses that were incurred in the trading of shares on regulated markets since 20 February 2020, markets have functioned orderly and that the integrity of markets has been largely preserved.

(42) ESMA has therefore analysed the current circumstances, in particular with reference to how far they constitute threats to the integrity of markets and to financial stability in the Union and whether the renewed ESMA measure would be efficient in addressing such threats by taking a forward-looking approach.

a. The measure significantly addresses the threat to the orderly functioning and integrity of financial markets

(43) Under the above described circumstances, any sudden increase in selling pressure and market volatility due to short selling and building up of short positions can amplify downward trends in financial markets. While short selling at other times may serve positive functions in terms of determining the correct valuation of issuers, in current market circumstances it may pose an additional threat to the orderly functioning and integrity of markets.

(44) In particular, given the horizontal impact of the continued emergency situation that affects a broad set of shares across the Union, any sudden fall in share prices may be exacerbated by additional selling pressure resulting from short selling and increased net short positions

that, if below the normal thresholds for notification to the national comptent authorities under Article 5 of Regulation (EU) No 236/2012, would therefore go undetected without the renewed measure.

(45) For the above reasons, national competent authorities and ESMA need to be aware as soon as possible of market participants engaging in short sales and building up significant net short positions to prevent, if necessary, that those positions become signals leading to a cascade of selling orders and a consequent significant fall in prices.

(46) ESMA considers that, without this measure being renewed for an additional three months, national competent authorities and ESMA would not have the capacity to adequately monitor the market in the current uncertain and fragile environment. This is accentuated by the apparent decoupling of financial market performance and the underlying economic activity, coupled with the evolving nature of the COVID-19 pandemic. Such factors could trigger a sudden and significant selling pressure and an unusual additional volatility in the price of Union shares that, in turn, could be further amplified by the accumulation of short positions.

(47) At the same time, ESMA considers it appropriate to maintain the publication threshold laid down in Article 6 of Regulation (EU) No 236/2012, which equals 0,5 % of the issued share capital of the company, as the lowering of this threshold does not appear to be necessary from the perspectives of maintaining orderly markets and addressing risks to financial stability. ESMA continues monitoring on an ongoing basis the market conditions and will take further measures, where needed.

b. The measure significantly addresses the threat to the stability of the whole or part of the financial system in the Union

(48) As described above, in the great majority of EU equity markets performance has worsened between June and September 2020, when compared to 20 February. Overall, trading in shares since 20 February 2020 was and still is characterised by selling pressure and a relatively high level of volatility. As evidenced above, various risk factors continue to have an impact on many sectors of the real economy and on EU financial markets. In this environment engaging in short selling and building up significant net short positions can amplify selling pressure and downward trends which in turn may exacerbate a threat which can have highly detrimental effects on the financial stability of financial institutions and companies from other sectors.

(49) In that context, data limitations for national competent authorities and ESMA would restrict their capacity to address any potential negative effects on the economy and ultimately the financial stability of the Union as a whole.

(50) Therefore, ESMA's renewed measure to temporarily lower the reporting thresholds of net short positions to national competent authorities efficiently addresses this threat to the stability of parts or ultimately the whole of the Union financial system by reducing data limitations and enhancing the national competent authorities capacity to address upcoming threats at an early stage.

c. Improvement of the ability of the competent authorities to monitor the threat

(51) In ordinary market conditions national competent authorities monitor any threat that may derive from short selling and the building up of net short positions with the supervisory tools established in Union legislation, in particular the reporting obligations concerning net short positions established in Regulation (EU) No 236/2012[13].

(52) However, the existing market conditions render it necessary to intensify the monitoring activity of national competent authorities and ESMA of the aggregated net short positions in shares admitted to trading on regulated markets. To that end and given the continued uncertainty related to the COVID-19 pandemic, it remains important that national competent authorities continue receiving information on the build-up of net short positions at the earliest stage possible, before they reach the level of 0.2% of the issued share capital laid down in Article 5(2) of Regulation (EU) No 236/2012.

(53) This is highlighted by the percentage of shares with a net short position between 0.1 and 0.2%, which steadily increased over the period 16 March until 11 June 2020 and has remained stable since then, until 4 September 2020[14], at on average 13% over the whole observation period. Therefore, it can be concluded that the percentage of net short positions between 0.1 and 0.2%, which had to be reported due to the lower notification threshold imposed by ESMA, remain a relevant portion of the total net short positions.

(54) Therefore, ESMA's renewed measure will maintain the improved ability of national competent authorities to deal with any identified threats at an earlier stage, allowing them and ESMA to timely manage threats to the orderly functioning of markets and to financial stability, should any sign of market stress manifest itself.

5. The measures do not create a risk of regulatory arbitrage (Article 28(3)(b) of Regulation (EU) No 236/2012)

(55) In order to adopt or renew a measure under Article 28 of Regulation (EU) No 236/2012, ESMA should take into account whether the measure creates a risk of regulatory arbitrage.

(56) Since ESMA's renewed measure concerns the reporting obligations of market participants with respect to all shares admitted to trading on regulated markets in the Union, it will ensure a single reporting threshold for all national competent authorities, ensuring a level-playing field among market participants within and outside the Union in respect of the trading of shares admitted to trading on regulated markets in the Union.

6. ESMA's measure does not have a detrimental effect on the efficiency of financial markets, including by reducing liquidity in those markets or creating uncertainty for market participants, that is disproportionate to its benefits (Article 28(3)(c) of Regulation (EU) No 236/2012)

[13] Cf. Article 5 of Regulation (EU) No 236/2012.

[14] The reports of the daily net short positions from Denmark are missing over the period 31 August – 4 September due to a technical issue.

(57) ESMA has to assess whether the measure has detrimental effects which would be considered disproportionate compared to its benefits.

(58) ESMA considers it appropriate that national competent authorities closely monitor the evolution of net short positions before considering adopting any more intrusive measure. ESMA notes that the normal reporting thresholds (0.2% of the issued share capital) may not be adequate in the continued exceptional market conditions to timely identify trends and materialising threats.

(59) Although the introduction of an enhanced reporting obligation may have added an additional burden to reporting entities, currently the latter have already adapted their internal systems upon the application of the ESMA Decisions (EU) 2020/525 and (EU) 2020/1123 and therefore this renewed measure is not expected to further impact the reporting entities' compliance costs. Additionally, it will not limit the capacity of market participants to enter into or increase their short positions in shares. As a result, the efficiency of the market will not be affected.

(60) Compared to other potential and more intrusive measures, this renewed measure should not affect the liquidity in the market as the increased reporting obligation for a limited set of market participants should not change their trading strategies and therefore, their participation in the market. Additionally, the maintained exception foreseen for market making activities and stabilisation programmes is meant not to increase the burden for entities that offer important services in terms of providing liquidity and reducing volatility, particularly relevant in the current situation.

(61) In terms of scope of the renewed measure, ESMA believes that limiting it to one or several sectors or to any subset of issuers may not achieve the desired outcome. The magnitude of the price declines recorded after the outbreak of the COVID-19 pandemic, the wide range of shares (and sectors) affected and the degree of interconnection between the EU economies and trading venues, suggest that an EU-wide measure is likely to be more effective than sectoral measures in providing early market intelligence to national competent authorities.

(62) In terms of creating market uncertainty, the measure does not introduce new regulatory obligations, as by lowering the relevant threshold it only modifies the normal reporting obligation that has been in force since 2012. ESMA also highlights that the renewed measure remains limited to the reporting of shares that are admitted to trading on a regulated market in the Union to capture those positions where additional reporting appears most relevant.

(63) Therefore, ESMA considers that such an enhanced transparency obligation should not have a detrimental effect on the efficiency of financial markets or on investors that is disproportionate to its benefits and should not create any uncertainty in the financial markets.

(64) In terms of duration of the measure, ESMA considers that a renewal of the measure for three months is justified considering the information available at this point in time and the remaining overall uncertain outlook in the context of the COVID-19 pandemic. ESMA intends to revert to the regular reporting obligation as soon as the situation improves, but at the same time cannot discard the possibility of extending the measure should the situation worsen or should markets remain in a fragile state.

(65) On that basis and as of this date, ESMA deems this Decision to renew the temporary increased transparency measure on net short postions to be proportionate given the continued adverse circumstances.

7. Consultation and notice (Article 28(4) and (5) of Regulation (EU) No 236/2012)

(66) ESMA has consulted the ESRB. The ESRB has not raised any objections to the adoption of the proposed Decision.

(67) ESMA has notified national competent authorities of the intended Decision.

(68) ESMA’s renewed measure will apply as of 18 September 2020.

HAS ADOPTED THIS DECISION

Article 1
Definition

For the purposes of this Decision, a ‘regulated market’ means a regulated market as referred to in Article 4(1)(21) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU([15]).

Article 2
Temporary additional transparency obligations

1. A natural or legal person who has a net short position in relation to the issued share capital of a company that has its shares admitted to trading on a regulated market shall notify the relevant competent authority, in accordance with Articles 5 and 9 of Regulation (EU) No 236/2012 of the European Parliament and of the Council where the position reaches or falls below a relevant notification threshold referred to in paragraph 2 of this Article.

2. A relevant notification threshold is a percentage that equals 0.1% of the issued share capital of the company concerned and each 0.1% above that threshold.

Article 3
Exemptions

1. In accordance with Article 16 of Regulation (EU) No 236/2012 of the European Parliament and of the Council, the temporary additional transparency obligations referred to in Article

[15] OJ L 173, 12.6.2014, p. 349.

2 shall not apply to shares admitted to trading on a regulated market where the principal venue for the trading of the shares is located in a third country.

2. In accordance with Article 17 of Regulation (EU) No 236/2012 of the European Parliament and of the Council, the temporary additional transparency obligations referred to in Article 2 shall not apply to transactions performed due to market making activities.

3. The temporary additional transparency obligations referred to in Article 2 shall not apply to a net short position in relation to the carrying out of a stabilisation under Article 5 of Regulation (EU) No 596/2014 of 16 April 2014 on market abuse ([16]).

Article 4

Entry into force and application

This Decision enters into force on 18 September 2020. It shall apply from the date of its entry into force for a period of three months.

Done at Paris, on 16 September 2020

For the Board of Supervisors

Steven Maijoor

The Chair

[16] OJ L 173, 12.6.2014, p. 1.

ANNEX

In this Annex, “ESMA decision” refers to the ESMA decision of 16 March 2020 to require natural or legal persons who have net short positions to temporarily lower the notification thresholds of net short positions in relation to the issued shares capital of companies whose shares are admitted to trading on a regulated market above a certain threshold to notify the competent authorties in accordance with point (a) of Article 28(1) of Regulation (EU) No 236/2012 of the European Parliament and of the Council [LINK].

FIGURE 1 – FINANCIAL INDICATORS

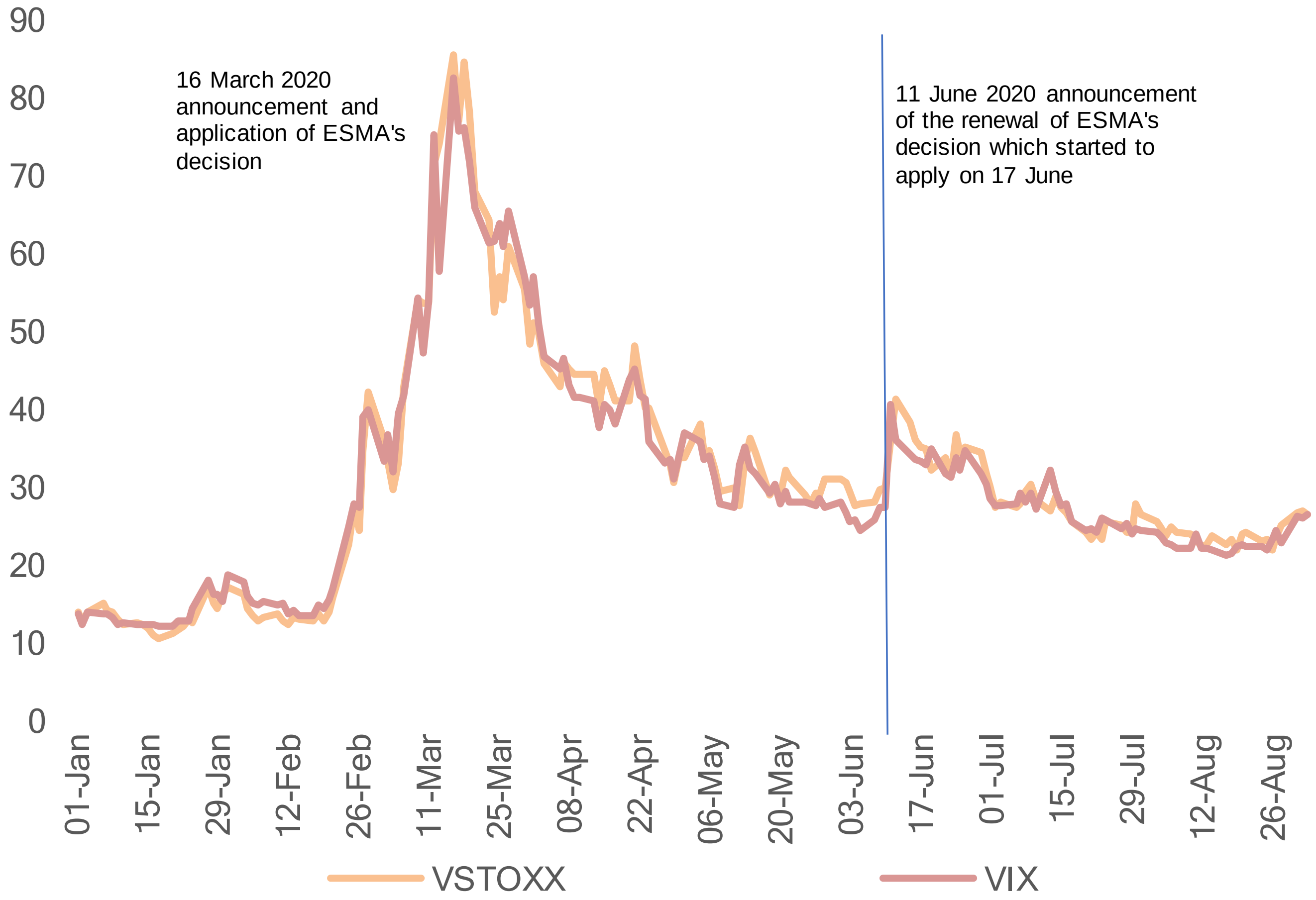
Equity market performance	Changes from 20/02/2020 to 03/09/2020	Index level as of 03/09/2020	Changes from 20/02/2020 to 04/06/2020	Index level as of 04/06/2020
STOXX EUROPE 800 ex. Switzerland	-17%	116	-16%	117
EURO STOXX INDEX	-13%	362	-13%	364
EURO STOXX 50	-14%	3,304	-13%	3,323
US S&P500	2%	3,451	-8%	3,112
JP Nikkei	0%	23,466	-3%	22,864
Global	-1%	228	-9%	211
European banks	-37%	93	-30%	104

IT financials	-30%	27	-29%	28
ES financials	-48%	34	-35%	42
DE financials	-13%	123	-11%	126
FR financials	-34%	118	-28%	130
Volatility	Changes from 20/02/2020 to 03/09/2020	Index level as of 03/09/2020	Changes from 20/02/2020 to 04/06/2020	Index level as of 04/06/2020
VSTOXX	15%	29	13%	28
VIX	18%	33	9%	25
Credit Default Swaps	Changes in bps from 20/02/2020 to 03/092020	CDS spreads in bps as of 03/09/2020	Changes in bps from 20/02/2020 to 04/06/2020	CDS spreads in bps as of 04/06/2020
Europe corporate	5	45	22	62
Europe high yield	92	290	157	355
Europe financials	15	59	29	73
Europe financials subordinate	38	124	62	149
10Y Government bonds	Changes in bps from 20/02/2020 to 03/09/2020	Bond yields in% as of 03/09/2020	Changes in bps from 20/02/2020 to 04/06/2020	Bond yields in% as of 04/06/2020
DE10Y	-5	-0.49	15	-0.29
ES10Y	9	0.33	32	0.55
FR10Y	2	-0.19	23	0.01
IT10Y	15	1.06	51	1.42

US10Y	-90	0.62	-67	0.86
GB10Y	-34	0.24	-24	0.34
JP10Y	8	0.04	9	0.05

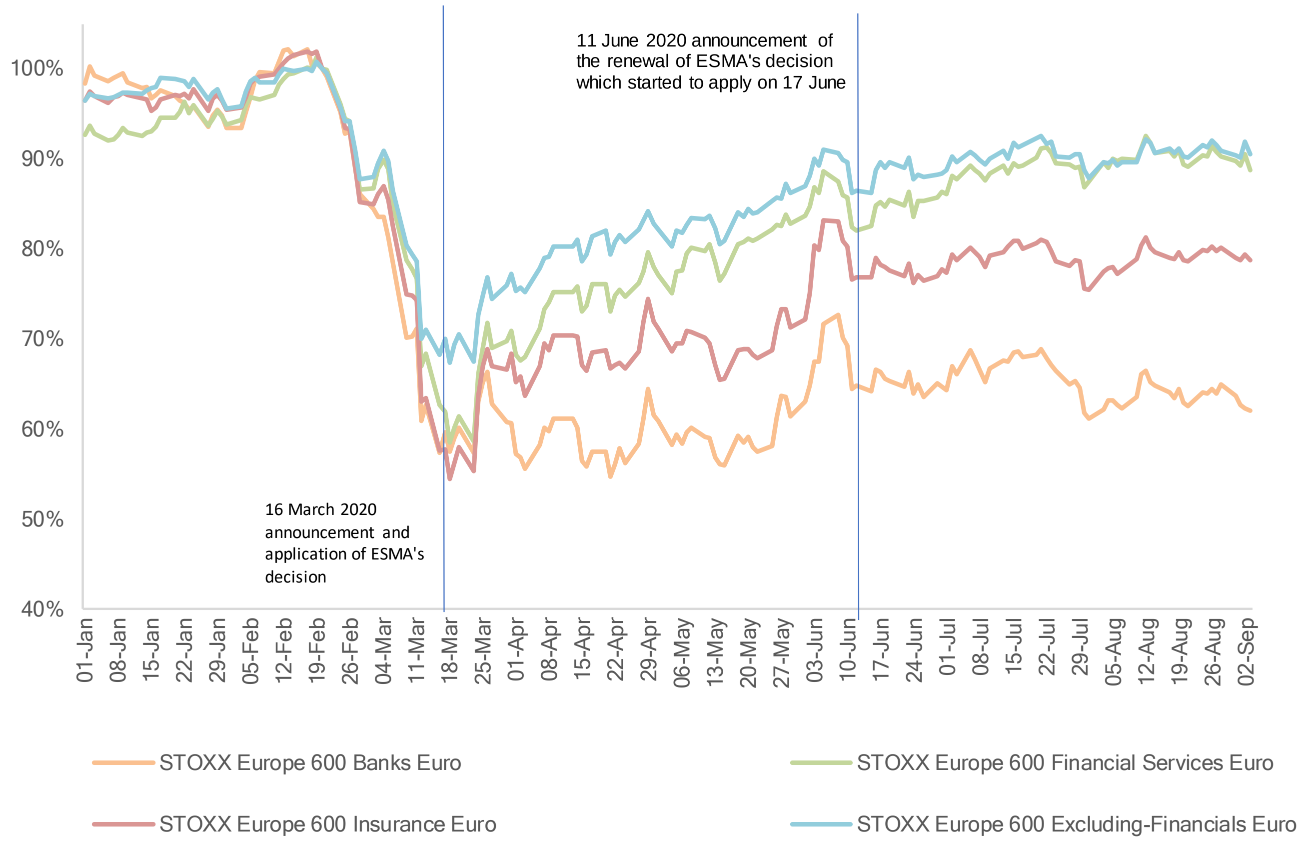
Note: Equity market changes expressed in relative terms, other changes in absolute terms.
Sources: Refinitiv EIKON; ESMA.

FIGURE 2 – VOLATILITY INDICATORS

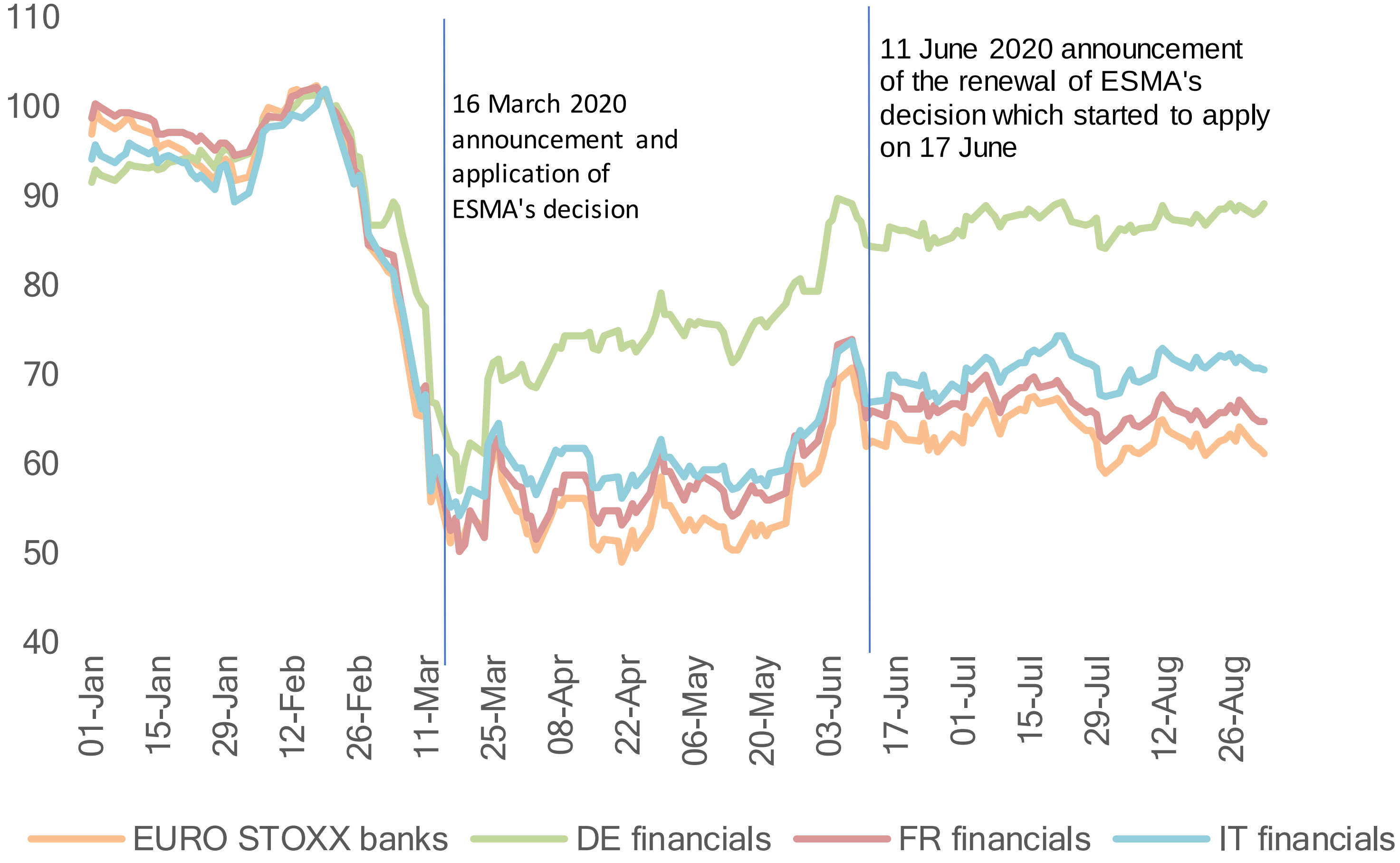


Note: Implied volatilities of EURO STOXX 50 (VSTOXX) and S&P 500 (VIX), in %.
Sources: Refinitiv Datastream, ESMA.

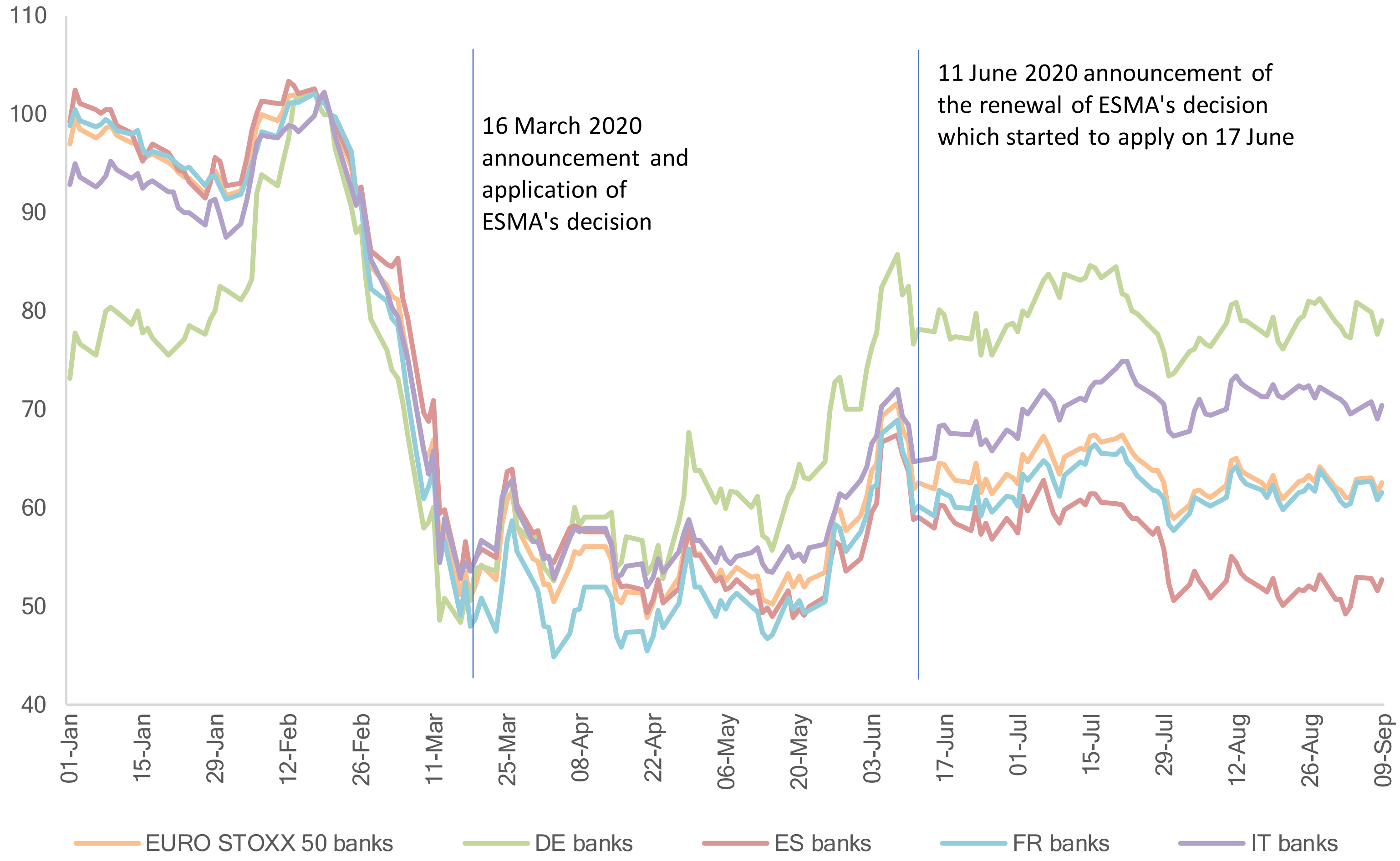
FIGURE 3 – EU SECTORAL STOCK INDICES



Note: Equity prices. 2020-02-20 = 100.
Sources: Refinitiv Datastream, ESMA.

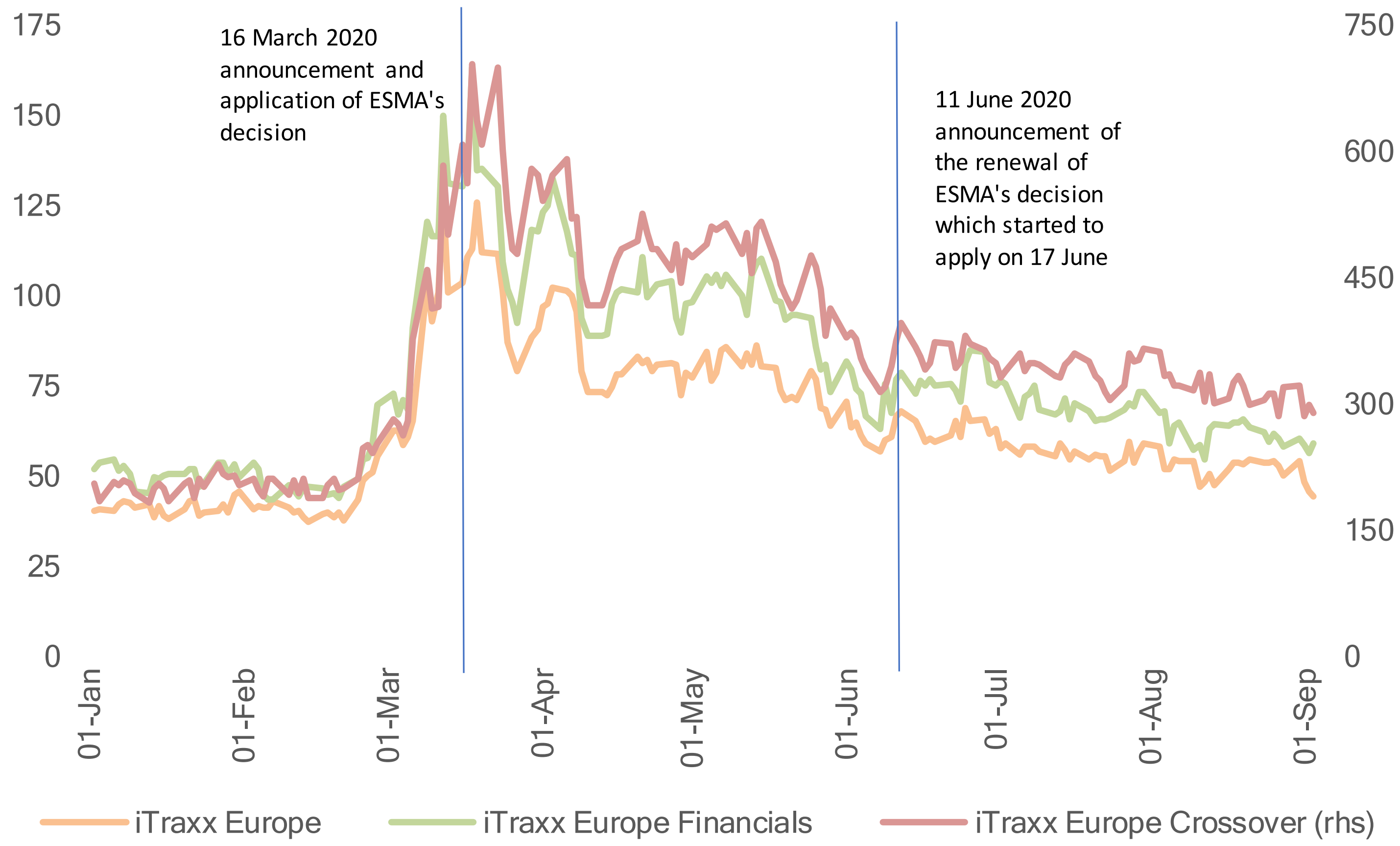


Note: Equity prices. 2020-02-20 = 100.
Sources: Refinitiv Datastream, ESMA.



Note: Equity prices. 2020-02-20 = 100.
Sources: Refinitiv Datastream, ESMA.

FIGURE 4 – EU CDS SPREAD INDICES



Note: CDS spreads on European IG corporates (iTraxx Europe), European HY corporates (iTraxx Europe Crossover) and European Financials, in bps.
Sources: Refinitiv EIKON, ESMA.

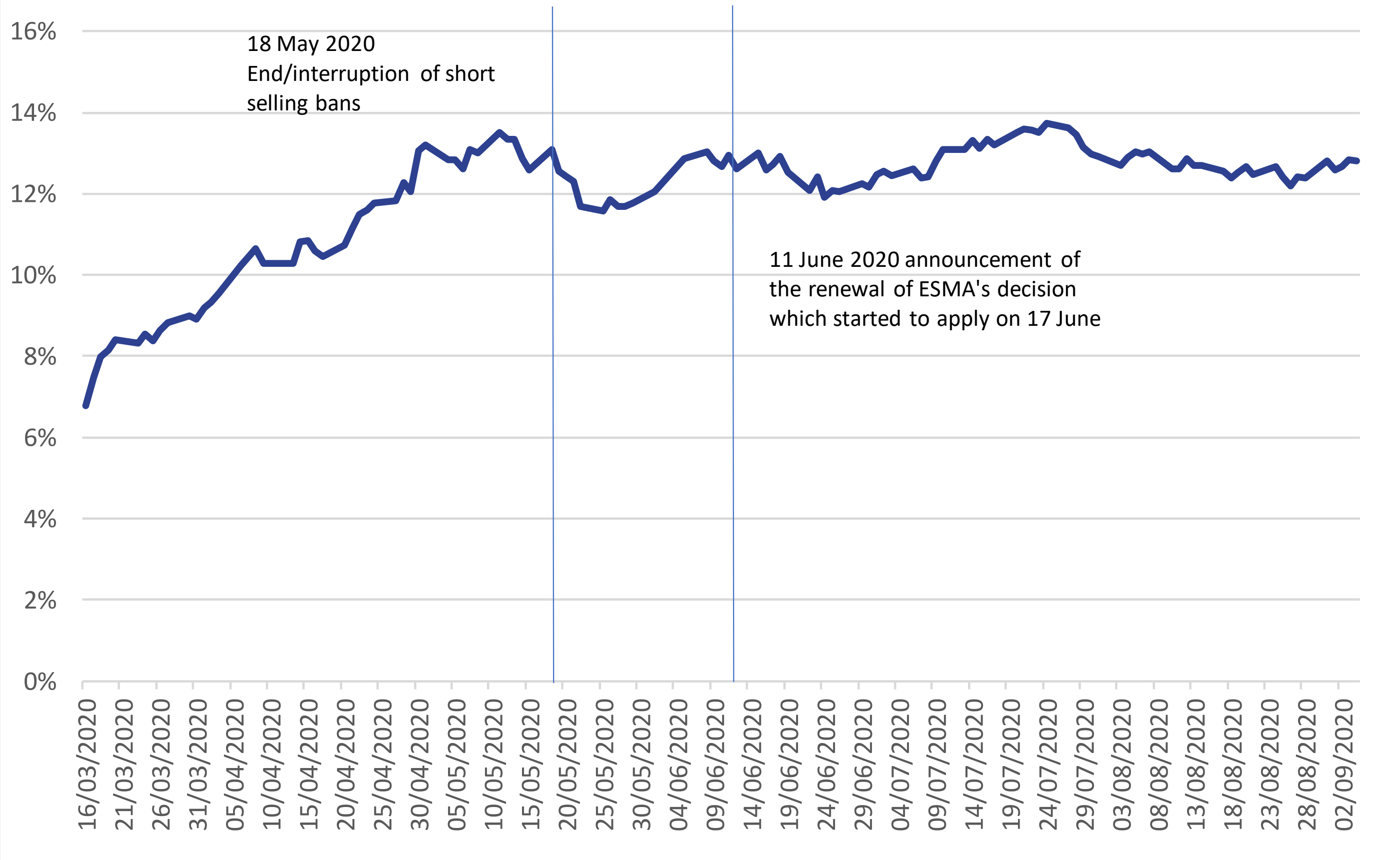
FIGURE 5 – EUROPEAN STOCK INDICES PERFORMANCE PER COUNTRY

	Percentage change from 20 Feb 2020 to 3 Sep 2020	Percentage change from 20 Feb 2020 to 4 June 2020
STOXX EUROPE 800 ex. Switzerland	-16.67%	-15.78%
EURO STOXX INDEX	-13.22%	-12.72%
EURO STOXX 50	-13.57%	-13.07%
AT	-30.21%	-23.30%
BE	-19.22%	-14.86%
BG	-20.67%	-15.69%
CY	-39.52%	-34.73%
CZ	-17.81%	-13.94%
DE	-4.44%	-7.32%
DK	4.24%	-2.48%
EE	-13.55%	-13.16%
ES	-29.45%	-21.88%
FI	-5.35%	-8.66%
FR	-17.37%	-15.91%
GB	-21.32%	-13.93%
GR	-29.24%	-26.64%
HR	-19.61%	-17.16%
HU	-24.05%	-17.83%

IE	-13.00%	-12.90%
IS	-1.50%	-4.44%
IT	-22.04%	-20.01%
LT	5.06%	-1.98%
LU	-25.92%	-21.60%
LV	5.53%	-1.81%
MT	-20.80%	-12.92%
NL	-11.66%	-9.17%
NO	-11.80%	-10.22%
PL	-15.75%	-13.47%
PT	-20.09%	-13.64%
RO	-10.73%	-11.45%
SE	-7.28%	-9.47%
SI	-13.01%	-10.83%
SK	-7.05%	0.07%

Sources: Refinitiv EIKON; ESMA.

FIGURE 6 – NSP BETWEEN 0.1% AND 0.2% OVER THE PERIOD 16 MARCH – 4 SEPTEMBER 2020[17]



Sources: ESMA.

[17] The reports of the daily net short positions from Denmark are missing over the period 31 August – 4 September due to a technical issue.

European Securities and
Markets Authority