

Chapter 3

Commission Implementing Regulation (EU) No 827/2012

Article 6 Arrangements and measures
to be taken in relation to short sales of
a share admitted to trading on a trading
venue[Article 12(1)(c) of Regulation (EU)
No 236/2012]

(1) Paragraphs 2, 3 and 4 shall determine the arrangements and measures to be taken in relation to short sales of a share admitted to trading on a trading venue pursuant to Article 12(1)(c) of Regulation (EU) No 236/2012.

(2) Standard locate arrangements and measures shall mean arrangements, confirmations and measures that include each of the following elements:

(a) for locate confirmations: a confirmation provided by the third party, prior to the short sale being entered into by a natural or legal person, that it considers that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions and which indicates the period for which the share is located;

(b) for put on hold confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that it has at least put on hold the requested number of shares for that person.

(3) Standard same day locate arrangements and measures shall mean arrangements, confirmations and measures that include each of the following elements:

(a) for requests for confirmation: a request for confirmation from the natural or legal person to the third party which states that the short sale will be covered by purchases during the day on which the short sale takes place;

(b) for locate confirmations: a confirmation provided by the third party prior to the short sale being entered into that it considers that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions, and which indicates the period for which the shares are located;

(c) for easy to borrow or purchase confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that the share is easy to borrow or purchase in the relevant quantity taking into account the market conditions and other information available to that third party on the supply of the shares or, in the absence

of this confirmation by the third party, that it has at least put on hold the requested number of shares for the natural or legal person;

(d) for monitoring: an undertaking by the natural or legal person to monitor the amount of the short sale not covered by purchases;

(e) for instructions in the event of failure to cover: an undertaking from the natural or legal person that in the event that executed short sales are not covered by purchases in the same day, the natural or legal person will promptly send an instruction to the third party to procure the shares to cover the short sale to ensure settlement in due time.

(4) Easy to borrow or purchase arrangements and measures shall mean arrangements, confirmations and measures when the natural or legal person enters into a short sale of shares that meet the liquidity requirements established in Article 1 of Commission Delegated Regulation (EU) 2017/567 of 18 May 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions, or other shares that are included in the main national equity index as identified by the FCA and are the underlying financial instrument for a derivative contract admitted to trading on a trading venue, that include the following elements:

(a) for locate confirmations: a confirmation provided by the third party prior to the short sale being entered into that it considers that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions and indicating the period for which the share is located;

(b) for easy to borrow or purchase confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that the share is easy to borrow or purchase in the relevant quantity taking into account the market conditions and other information available to that third party on the supply of the shares, or in the absence of this confirmation by the third party, that it has at least put on hold the requested number of shares for the natural or legal person; and

(c) for instructions to cover: when executed short sales will not be covered by purchases or borrowing, a undertaking that a prompt instruction will be sent by the natural or legal person instructing the third party to procure the shares to cover the short sale to ensure settlement in due time.

(5) The arrangements, confirmations and instructions referred to in paragraphs 2, 3 and 4 shall be provided in a durable medium by the third party to the natural or legal person as evidence of the existence of the arrangements, confirmations and instructions.