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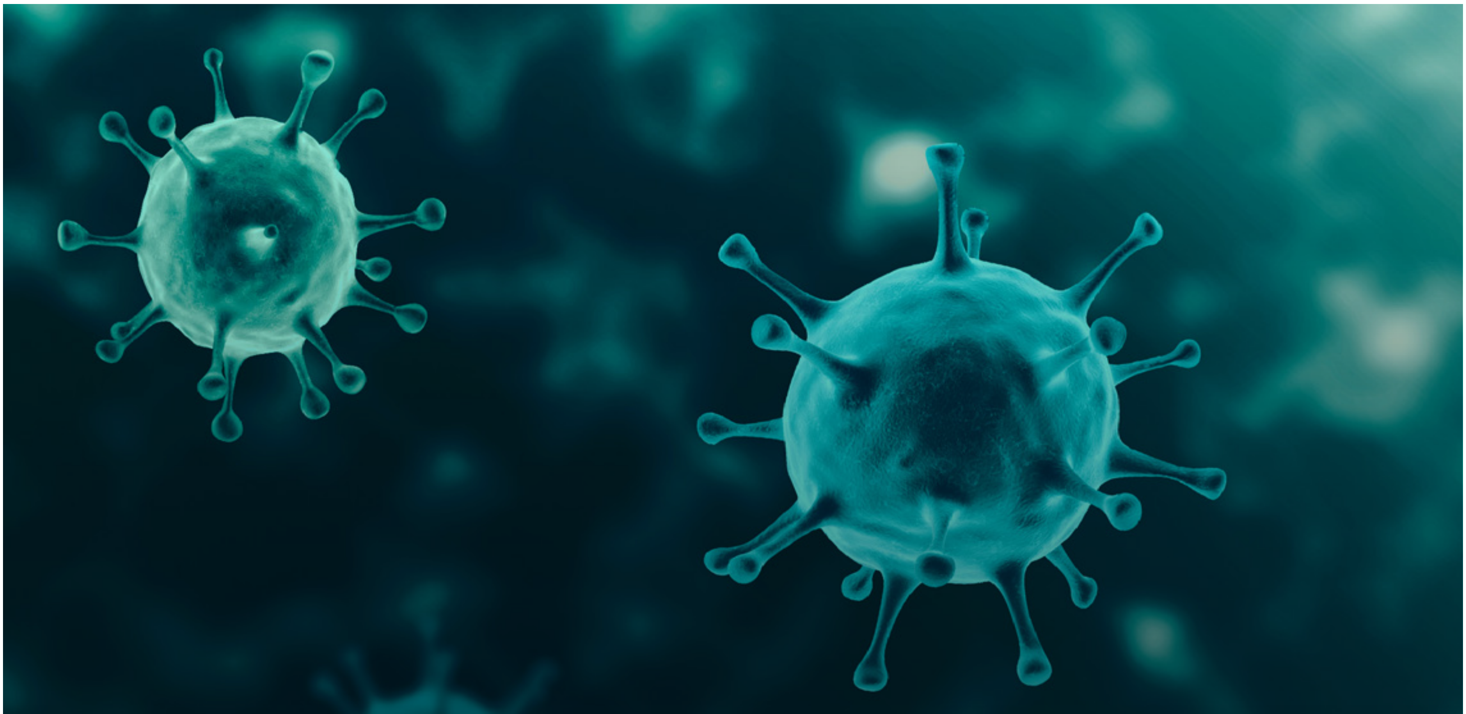

Short Selling Shutdown

In searching for a cure for the recent market meltdowns, regulators are forgetting the lessons from the last crisis

Short Sighted

Short selling bans have come into effect in Europe and Asia. But do they work?

SFTR Delayed

The first phase of the EU's regulation has been pushed back to July and backloading requirements have been scrapped

Malik's Memo

Market FinReg's Seb Malik breaks down the legal and political context that led ESMA to delay SFTR

ESMA boxed-in to controversial SFTR delay

As the global official number of COVID-19 infections soars to more than 732,000 and deaths edge beyond 34,000 (as of 30 March), the pandemic has also sowed chaos across global markets.

For European securities financing market participants, the pandemic's biggest consequence to-date is that the long-awaited first-phase go-live of the Securities Financing Transactions Regulation (SFTR) was pushed back until July, in a bid to allow disrupted firms a few more months to get their houses in order.

The trading bloc is also hosting a spate of lengthy short selling bans imposed by national regulators in France, Italy, Spain, Belgium and elsewhere (see news section).

The precise terms of the bans vary from market to market, with most opting for a one-month ban, while Italy went for three months. The scope also varies from only applying to the worst affected stocks to blanket bans across all trading venues.

Any port in a storm

In order to grant the last-minute reprieve that was requested by industry bodies a few days prior, the European Securities and Markets Authority (ESMA) was forced to engage in the highly-unconventional process of asking national competent authorities (NCAs) "not to prioritise their supervisory actions" towards entities in-scope for the first phase of SFTR.

The path chosen by ESMA to bring about a reporting grace period raised eyebrows among some industry participants, who speculated that the move left the authority in a legally dubious position given it has no official power to make such a request. **See Malik's Memo (p16) for further reporting.**

The first phase of SFTR is still legally due to come into effect on 11 April for investment firms and credit institutions, but NCAs are now expected to turn a blind eye to those who struggle to achieve full compliance with the reporting requirements as a result of the upheaval to day-to-day business brought on by the coronavirus (COVID-19) outbreak.

Phase-one entities are now expected by ESMA to be ready to start reporting by the phase-two deadline (11 July), which will also bring in central counterparties and central securities depositories.

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The Bank of England launches term repo facility

The Bank of England (BoE) has launched a Contingent Term Repo Facility (CTRF) as a temporary enhancement to its sterling liquidity insurance facilities.

The new liquidity insurance tool aims to "alleviate frictions" in money markets in recent weeks, both globally and domestically, as a result of the economic shock caused by the outbreak of COVID-19.

The CTRF allows market participants to borrow central bank reserves in exchange for other less liquid collateral.

The BoE says this is a reliable way that banks can gain the necessary liquidity to support overall financial stability as they attempt to balance their books over Q2 quarter-end amid the on-going market distress.

The new facility will remain in place for three months, starting on 24 March, and will bolster the bank's existing sterling market operations. These include the Indexed Long-Term Repo and Discount Window Facilities.

The BoE is also able to lend in all major currencies through its participation in the central bank swapline network.

On the CTRF, the central bank says: "This will also allow participants to use the CTRF as a way to bridge beyond the point at which drawings can be made from the Term Funding Scheme with additional incentives for small-medium enterprises – helping to support lending to the real economy as quickly as possible."

ESMA boxed-in to controversial SFTR delay

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In a statement on the delay, ESMA has requested that market regulators "generally apply their risk-based approach in the exercise of supervisory powers in their day-to-day enforcement of applicable legislation in this area in a proportionate manner".

The regulator further clarified that it does not consider it necessary to register any trade repositories ahead of 13 April. Instead, they will be registered by the next phase of the reporting regime in July.

Why now?

The delay came days after the International Capital Market Association (ICMA) and the International Securities Lending Association (ISLA) wrote to ESMA's chair, Steven Maijoor, to outline how the pandemic had left their members "critically compromised" in their effort to meet next month's SFTR deadline.

The associations further requested a formal delay to SFTR phase one until October "as a matter of urgency" adding that the new deadline should be "an appropriate date that falls well outside the expected critical phase of the pandemic".

The delay until 11 October was suggested as it would have aligned with the current deadline for the third phase of SFTR reporting, which includes buy-side members.

Regardless, the unofficial delay has been welcomed by the market, including ISLA and ICMA, along with securities finance service providers such as IHS Markit, Pirum Systems, MarketAxess and EquiLend, among others.

Pierre Khemdoudi, global co-head of equities, data and analytics at IHS Markit, says: "Given the combined challenge of managing COVID-19, workplace arrangements and volatile global markets, it is our view that this delay will allow all market participants more time to effectively test and prepare for SFTR reporting."

Laurence Marshall, COO at EquiLend, further notes: "We welcome this delay, which will allow parties to focus on the immediate priorities in these challenging times and ensure that the start of SFTR proceeds more smoothly."

However, Sunil Daswani at MarketAxess notes that "there is still further clarification on what this will mean for phase one firms". "ESMA's statement still indicates that they expect firms falling under scope on 13 April to continue to be preparing for SFTR and ready to report as soon as repositories are approved. This could take place even before the 13 July."

The need for further clarity primarily revolves around how the delay affects SFTR's backloading rules (see p10), which require transactions open at go live and still live up to 180 after that date to be reported in the coming months.

Was a formal delay ever possible?

The ICMA/ISLA letter to ESMA could only request that the "process be started" to push back SFTR's first phase implementation as the authority does not have the power to unilaterally grant any such reprieve.

Due to SFTR's implementation timetable being enshrined in EU law, the decision to allow a delay lies with the European Parliament and Council. But, ESMA is able to recommend to the commission that a delay is needed on the market's behalf.

Most recently, ESMA exercised this power in relation to the Central Securities Depositories Regulation's settlement discipline regime, which was re-scheduled to go live in February 2021, from September, following wide-spread market concerns and lobbying efforts from ICMA, ISLA and many other industry bodies.

For SFTR, however, ESMA has instead opted to enter the legal grey area of requesting that NCAs turn a blind eye to those that may not achieve full compliance by April.

This falls short of the associations' request for a "formal delay" but, as Seb Malik head of financial law at Market FinReg, notes, several issues existed related to the viability of any legislative mechanism for amending Article 33 of SFTR, which outlines the date of application.

Speaking to SLT, Malik notes that the EU's parliamentary calendar did not appear to allow for the multi-step process for a formal amendment to SFTR to be proposed and ratified before 11 April.

With a formal delay no longer viable, Malik argues that the only options left were for the Commission to reach for one of the few tools remaining to it under SFTR. It could either have utilised Article 2(4) to descope all entities for phase one and reinstate them later or it could subvert the EU Parliament by issuing a delay without its consent.

In the end, ESMA opted for the least worst path, says Malik, who notes that by the letter of the law, ESMA might be left "exposed to claims that it had acted ultra vires" (beyond its mandate).

As a result, ESMA was left with little option but to unofficially request a no-action by NCAs.

No evidence short selling drives market falls, says UK's FCA

Short selling is a critical underpinning of liquidity provisions and there is no evidence it has driven the recent market falls, according to the UK's Financial Conduct Authority (FCA).

The markets watchdog confirmed that despite the major volatility fuelled by the COVID-19 pandemic, the UK's markets "have continued to operate in an orderly fashion".

The FCA's comments came after regulators in France, Italy, Spain, Belgium and Greece, along with regulators in Asia, imposed bans on traders taking new short positions or increasing existing positions.

In contrast, the FCA has only mirrored bans for in-scope shares where requested by those national competent authorities (NCAs) but has stopped short of imposing its own ban for local markets.

In a statement explaining its rationale, the FCA says that aggregate net short selling activity is low as a percentage of total market activity and has decreased in recent days.

"It will continue to fluctuate, but there is no evidence that short selling has been the driver of recent market falls," the FCA adds. "A great many investment and risk management strategies rely on the ability to take 'long' and 'short' positions."

The market regulator further notes these strategies benefit a wide range of ordinary investors including the pension funds for employees of companies and local government, as well as being an extremely "critical underpinning of liquidity provisions".

The FCA's stance has been broadly welcomed by the securities lending market, with several commentators noting that the familiar pattern of short sellers being blamed and punished for a market downturn caused elsewhere was starting to re-emerge.

"All too often in the past regulators immediately introduced short selling bans on an assumption that they are significantly contributing to market volatility," says Sarah Nicholson, director of Consolo, a UK-based securities finance consultancy.

"With improved transparency measures introduced since the financial crisis in 2007/2008, regulators have much more data to rely on and can make better, more informed decisions," she explains.

Nicholson further notes that, "after 2008, analysis suggested that the unwinding of short positions contributed significantly to maintaining liquidity in markets, but not contributing to volatility," adding that "many regulators have subsequently stated they regretted short selling bans imposed at the time".

ESMA scraps SFTR backloading requirements

ESMA has clarified that its request for national regulators to ignore the Securities Financing Transactions Regulation's (SFTR) reporting rules until 13 July, also means it no longer requires transactions to be backloaded.

SFTR's regulatory technical standards (RTS) include a backloading requirement for trades that are live on the 11 April go-live date and are still active 180 days after that.

The confusion following the European Securities and Markets Authority's (ESMA) first statement (18 March) stemmed from the fact that if the backloading requirement was enforced, but firms were simultaneously not expected to report trades between 11 April and 13 July, it would create a three-month hole in the dataset sent to ESMA and trade repositories.

To side-step the whole issue, ESMA now says that firms are not expected to backload.

Today's statement comes after a week of confusion which saw national regulators, industry bodies and other stakeholders attempt to interpret the specific implications of the unofficial delay, given the unconventional legal method with which it was handed down.

Banks and investment firms that are in scope for phase one must now wait for national competent authorities (NCAs) to state if they will comply with ESMA's request.

The UK's Financial Conduct Authority has corrected its earlier interpretation of the terms of the delay to fall in line with today's statement. The Dutch regulator has also agreed to abide by the reprieve.

It is understood that further clarifications are still required by market stakeholders around whether this statement includes all four phases of SFTR.

Commenting on ESMA clarification, Val Wotton, managing director of product development and strategy, repository and derivatives services, DTCC says "We welcome ESMA's clarification on SFTR backloading which will no doubt be well received by the industry as it progresses its preparations for the revised SFTR deadline of 13 July."

Why was this clarification needed?

As part of its original de facto delay statement (19 March), ESMA suggested that NCAs should "not to prioritise their supervisory actions" towards those in-scope to report SFTs concluded between 13 April and 13 July under SFTR or the Markets in Financial Instruments Regulation. Regulators should "generally apply their risk-based approach in the exercise of supervisory powers in their day-to-day enforcement of applicable legislation in this area in a proportionate manner".

However, questions remained around how this affected transactions that fell between 11 April and 13 July, as well as the date to be used as a reference point for SFTR's backloading requirements.

On 20 March, UK's Financial Conduct Authority published its opinion on the backloading issue stating that it expected firms to also use the 13 July implementation date as the new reference point for trades subject to backloading. ESMA's latest clarification has overruled this reading.

Short selling shutdown

It is said that there are no atheists in a foxhole. Or, as the more contemporary version goes, there are no libertarians in a pandemic.

Thus, earlier this month, as global regulators desperately scrambled to pull their local markets out of a steep nosedive brought on by the rapid spread of COVID-19 across the world, some turned to familiar tools that had been gathering dust since the last crisis – a short selling ban.

The locations of the bans in both Europe and Asia have been largely predictable, with a few exceptions.

The first market tremors began in late February and grew to seismic proportions in early March, culminating in some of the worst trading days ever known. In North America and Europe, the drops matched and then surpassed the peak of the 2007/2008 financial crisis.

Between 20 February and 20 March, EU stock markets lost up to or more than 30 percent in value.

However, only a handful of regulators have so far resorted to banning short selling, which is perceived as exacerbating the downward pressure. Much has been written in this magazine (see news and features sections) on the flawed logic in that argument and that particular horse will not be flogged further here.

The EU bans are enforced under Article 20 of the EU Short Selling Regulation (2012). This regulation also includes an exception for market-making activities under Article 17 that all EU regulators have highlighted in their rulings.

Globally, the bans vary in length and scope but all seem to coalesce on the point that they only bar new short positions being taken or the building of existing positions. Even the most zealous anti-short selling regulator, it seems, understands the perils of requesting the unwinding of all short positions en masse.

The bans in Europe began in early March, with a smattering of single-day bans that sought to provide a cooling-off period on specific stocks that were hardest hit by the pandemic. Once those failed, the shutdowns were extended to one or even three months amid fears that uber-exposed sectors would not survive without shielding from rampant bears.

Shorting worldwide has since declined and utilisation of EU shares available to lend ended last week at around 6 percent according to FIS' Astec Analytics.

The below offers a summary of the current bans in effect across the world as of 27 March.

Austria

Regulator: Austrian Financial Markets Regulator
Initiated: 18 March
Expires: 18 April
Scope: All shares other than for market-making purposes
Regulator's reasoning: "Speculative short selling may lead to significant risks in the currently exceptionally volatile global and Austrian market environment."

Belgium

Regulator: Financial Services and Markets Authority

Initiated: 18 March

Expires: 17 April

Scope: All securities listed on Euronext Brussels and Euronext Growth.

The ban also applies to index-related instruments only if the shares represent more than 20 percent of the index weight.Does not apply to market-making activities.

Regulator's reasoning: "The severe losses observed, the incertitude as regards the spreading of the COVID-19 contagion and the possible consequent further volatility and downward price spirals having the effect of prejudicing market confidence."

France

Regulator: French Financial Markets Authority

Initiated: 18 March

Expires: 16 April

Scope: 92 securities, bar market making activities.

Regulator's reasoning: "In the light of the outbreak of coronavirus and its consequences on the economy and financial market in France, the FMA has decided to ban the creation or increase of short net positions with immediate effect."

Italy

Regulator: CONSOB

Initiated: 18 March

Expires: 18 June

Scope: All securities. Includes short transactions on index-related instruments that include prohibited shares if the weight of the restricted shares exceeds 20 percent of the index.

Does not apply if the short transactions on the restricted shares are carried out to hedge a long position. Does not apply to market making activities.

Regulator's reasoning: "These measures were made necessary by the strong turbulences triggered in the last days by the COVID-19 pandemic."

Malaysia

Regulator: Securities Commission Malaysia

Initiated: 23 March

Expires: 30 April

Scope: All securities.

It involves intraday short selling and regulated short-selling, as well as intraday short selling by proprietary day traders.

Does not apply to 'permitted short selling' (market making).

Regulator's reasoning: "This remains a short-term measure that sets to provide stability and confidence. We remain committed to ensuring a conducive trading environment in our marketplace."

South Korea

Regulator: Financial Services Commission

Initiated: 16 March

Expires: 16 September

Scope: All securities listed on the KOPSI, KOSDAQ and KONEX

Regulator's reasoning: The decision is seen as the "strongest step" the FSC has taken since the financial crisis in order to address market volatility.

Indonesia

Regulator: Financial Services Authority of Indonesia

Initiated: 3 March

Expires: Until further notice

Scope: All securities

Regulator's reasoning: To avoid further market volatility and investor panic.

Greece

Regulator: The Hellenic Capital Market Commission

Initiated: 18 March

Expires: 24 April

Scope: A lockdown is imposed on short selling and certain aspects of credit default swaps for all securities admitted to trading on the Athens Stock Exchange irrespective of the venue where the transaction is executed.

Regulator's reasoning: "The consequences of the COVID–19 constitute a threat to the market confidence of the EU, in general, including Greece, and the prohibition is appropriate and proportionate for the level of such threat and will not have a detrimental effect on the efficiency of the markets which is disproportionate to its benefits."

Seb Malik
Head of financial law
Market FinReg

Regulatory rigidity

Every so often one writes tomorrow's headlines! In my previous memo, I wrote how the primary legislation model of regulation the EU opted for ties them in a straight jacket, incapable of timely reaction to events and compared this to the anticipated UK's post-Brexit model. I stated how I believed the Securities Financing Transactions Regulation (SFTR) ought to be delayed, but that affecting such a change would prove difficult as the date of application (go-live date) is baked into the legislation.

Since then, two trade bodies publicly wrote to the European Securities and Markets Authority (ESMA) and the commission requesting this delay. Utilising our contacts, Market FinReg privately briefed the European Commission and ESMA on the options that were and were not available to them, and included draft legislation to speedily bring effect to such a delay.

Not wishing to create confusion in the wider industry, we did not release the letters. We explained that the only legal manner to formally delay SFTR would be a fresh new regulation that amends the start dates in Article 33. Given the "ordinary legislative procedure" would take months to complete, this normal route was unavailable.

A delegated regulation – where the commission directly passes legislation, having been initially empowered by the base level-one regulation (SFTR), was also not available because SFTR provided the commission with no empowerment to alter the start dates.

That left only two options. The commission could exploit the Article 2(4) empowerment that allowed the commission to change the scope of entities affected by SFTR at any time. The commission could, thus, legitimately directly issue a delegated regulation that descoped all entities, and then at a later date, rescope them. In legal terms, SFTR would go live on 11 April, but no entities would be in scope. This would bring about the effect of a delay, in a legal manner.

Alas, in the end, ESMA opted for the option that we feared they would and which runs a horse and cart through the concept of the rule of law. ESMA issued "guidance" to national competent authorities (NCAs) to effectively turn a blind eye to lack of reporting until 13 July. Put bluntly – not reporting will be illegal, but ESMA wants NCAs to ignore this illegality.

Who cares? Let me be clear. Practically speaking, SFTR is delayed till 13 July – that is all the industry needs to concern itself with.

But sticking to rules does matter. There are serious long-term consequences to this. When the very institutions that set and enforce rules don't hesitate to flout their own rules and show no interest in even engaging, citizens are left feeling detached and disempowered with no recourse to remedy.

This feeling of haughty aloofness, a form of "who are you?" was what led the British public to decide by majority that the institution was beyond reform. As a staunch Remainer, perhaps for the first time in my life, I recall myself agreeing with Jacob Rees-Mogg on 20 June 2018 when he grilled the European Parliament's Brexit coordinator Guy Verhofstadt in the Brexit Select Committee. "The rules are the rules" and the EU could thus afford no flexibility, insisted Verhofstadt. Rees-Mogg expressed incredulity and proceeded to present examples where the EU did side step their own rules when it suited them.

Should the EU continue to flout its own rules and ignore engagement then, in the age of rampant populism, Brexit might not be the only country headed for the exit.

Practical lessons:
The rule of law is undermined at an institution's peril. In future, legislation should by default empower the commission to delay application dates following a recommendation from ESMA. This would allow the former to directly issue a delegated regulation.

More fundamentally, readers are referred to last edition's memo in which I discuss in more detail the need for a more dynamic regulator that would be empowered to take such decisions unilaterally.

The long and short of it

Natalie Turner reports

Due to the extreme market volatility inflicted by the coronavirus pandemic, various bans on short selling has come into effect across all parts of the world. The question is, is it helping?

There's been much debate as to whether the short selling bans that have swept across Europe and Asia have made a positive difference or not. We've seen Italy, France, Belgium, Spain and Greece impose bans of various length and scope, while the Philippines has closed its financial markets down completely. According to those regulators, these measures are a necessity due to the turmoil triggered by the COVID-19 pandemic that has spread all over the globe.

The last time we saw the markets take a plunge like this was the 2007/8 financial crisis where most regulators around the world reacted by imposing similar bans on short selling. Although, these were often targeted at different sets of stocks and featured varying degrees of stringency.

According to subsequent research by Journal of the American Finance Association, these market authorities found that the bans were in fact detrimental for liquidity, especially for stocks with small capitalisation and no listed options. They also slowed price discovery, especially in bear markets, and failed to support prices (except possibly for US financial stocks).

Short selling is practised in near-on every major market and is often used by index creators to distinguish between developed and developing markets. It is a normal part of the everyday operation of exchanges where investors and traders meet on a daily basis. Yet the markets appear to be placing blame on short sellers. Why? Particularly when there is evidence demonstrating that the markets keep dropping despite the bans.

Ihor Dusaniwsky, managing director at S3 Partners explains that it's no surprise. "A short selling ban, although possibly psychologically advantageous, would have pretty much no effect on the market volatility or pricing but may have an impact on liquidity".

Meanwhile, Lynden Howie, European head of equity finance at Cantor Fitzgerald suggests that "given the scale of the sell off in equity markets recently, it's hard to discern the impact of the short sale ban." He notes that Spain and Italy first banned short selling over a week ago and their main indices have gained slightly.

France, in contrast, banned short selling a day after its southern neighbours and its main index was down 5 percent a week later, Howie further adds that the FTSE 100 is only down 1 percent despite short selling being allowed.

While much of the media's focus is understandably on the markets that do act to ban shorting, it's arguably more notable to look at the regulators that refrain from imposing a ban; especially those that did so during the financial crisis.

"The UK, Germany and Switzerland (to name just a few) market authorities have all kept short selling active as they publicly have stated seeing their respective markets trading appropriately, despite the recent volatility," notes director at S3 Partners, Matthew Unterman.

Regulators want liquidity, market efficiency, price discovery and fair markets. Their tools to meet these objectives include rule-setting, disclosure and constraints and they use these tools to monitor, control and punish. Increased disclosure, such as the European Securities and Markets Authority's (ESMA) move to drop the reporting threshold to 0.1 percent of a company's shares is one example of regulators deploying their toolkit in an arguably more effective manner to meet those objectives. Italy's CONSOB has also passed new rules to improve market transparency around short selling during this period of turmoil.

Roy Zimmerhansl, practice lead at Pierpoint Financial, a UK consultancy firm, says: "Anecdotally, I can say that some potential short sellers I have spoken with always stayed below the 0.2 percent threshold to avoid any potential damage for future engagement with target companies. The lowering of the reporting level will therefore likely have some impact while also enhancing ESMA's visibility into market trading.

"While I accept that disorderly markets do not provide benefits for anyone, my view is that short selling bans that extend beyond a day are disruptive, distort markets and may create unintended consequences."

As markets take a dive, short sellers and long sellers both participate, with every sale making the next sale more likely. A short seller will bet it all on a spectacular market crash, and the difference is that short sellers need to repurchase the shorted stocks in order to book profits. Short selling stocks allows traders to profit from falling prices and hedge the market risk of a portfolio.

At S3, Unterman says his team has crunched the numbers for the US market and says that short selling activity of $50 billion "is insignificant when looking at overall trading volumes" of $8-10 trillion.

"Long selling and deleveraging have been the driver of downward stock price movements, not short selling," he adds.

Once a market has had a significant fall, the risk versus reward prospects shift and the potential profit for new short sales is seriously diminished, Zimmerhansl explains. "The further a market falls the less likely that short sellers have any meaningful impact and in fact, the market becomes exposed to long sellers with no shorts to act as buyers of last resort," he adds. "Despite all the evidence that short selling bans don't have any lasting effect, and if you accept my proposition that a market that has fallen more than 20 percent is a lot less likely to attract new short sellers, then why do regulators apply them?"

In the end, theoretical economic arguments on short selling are just a distraction from the fact that the real reason markets are tanking is due to the very real problem of a pandemic ripping through communities, shutting down businesses and disrupting trade. No amount of panicky fiddling with the knobs and levers in market control rooms around the world can overcome this fact.

Despite such a formidable problem and loud calls for decisive action from skittish politicians and investors that are watching their portfolios shrivel to nothing, regulators should hold their nerve, concludes Zimmerhansl.

With the wealth of evidence from recent history at everyone's fingertips which highlight how previous bans negatively impact market stability in the long run, regulators should stick to the facts and resist being bullied into knee-jerk reactions to appease the street.

As the Italian philosopher George Santayana famously said: "Those who do not learn from history are doomed to repeat it."

Uncharted waters

Sarah Nicholson
Director
Consolo

As a veteran of the 2008 financial crisis and other industry-defining events, Consolo's Sarah Nicholson shares her wisdom on how to navigate the current market upheaval, including the COVID-19 pandemic, the delayed SFTR, and the need for in-house expertise

Pre-corona, what trends were you seeing in the securities finance industry?

The trends in securities lending have been less apparent because of the focus on delivering the Securities Financing Transactions Regulations (SFTR) reporting requirements but there are plenty of developments and initiatives in the background. Having said that, SFTR in itself is driving the search for increased automation, and better connectivity, not just in operational areas but trading too. With the potential cost savings that can be made from peer-to-peer trading, I think we are seeing increasingly innovative routes to access markets and non-traditional counterparties, driven by capital and expense savings and using advanced technology.

Clearly, environmental, social and governance (ESG) is also a significant focus for many entities and how to manage a lending book on an ESG fund. Establishing what the rules of engagement are and how to maintain the integrity of ESG investments whilst accessing the lending markets is a challenge being grappled with by many firms. The growth in ESG investment means this is critical for the supply side in particular to resolve.

As a, excuse the phrase, seasoned veteran, have you ever seen anything affect the market in the way COVID-19 has and is this good or bad for securities lending?

Not sure I like 'seasoned veteran' but I haven't seen anything that's had the same impact on a global scale that COVID-19 has. I will admit to having seen a few major disruptions to securities lending, but these have generally been local to a market or sector.

The financial crisis in 2008 and the Lehman default specifically had the effect of closing down the industry overnight, but for most firms this was for a short period whilst positions were restored. The COVID-19 impact is going to be for a lot longer and firms will need to find ways not just to manage open positions but of continuing to trade, I understand that remote working has been implemented successfully in most cases but this has mostly been on a DR basis so far and not trying to achieve 'business as usual'.

It is disappointing to see the negative reactions to short sellers immediately as the markets began to crash, albeit predictable. Although it is understandable that regulators have implemented restrictions in some sectors/markets, short sellers seem to always get implicated whenever a global event creates a stock market fall. It is interesting to see analysis already being published showing that the long holders who are selling are having more of an impact - usually this conclusion is reached after the event when the negative press has already done the damage. Beneficial Owners who are often already uneasy with the relationship between securities lending and short selling inevitably get jittery when they read this, often ill-informed, commentary, and correcting it after the event when markets are improving doesn't negate all of the potential damage done.

Pension funds will have seen their values obliterated through stock market crashes, will this encourage some to look for the incremental returns securities lending can offer?

Fund values have been obliterated because of the crisis but it's important to remember that it's because of the virus, not because of fundamental problems with the underlying investments. Markets will bounce back and whilst this could take a considerable time, current levels are not reflective of the true value. However, interest rates are likely to remain low for some time, through the crisis and whilst the economy begins to recover, which has a more direct and immediate impact on pension funds. Certainly there is a trend that after any financial crisis, more firms become interested in the incremental returns that securities lending can offer, but not until markets have stabilised for a period of time.

We have seen the SFTR deadline moved back to 13 July, what is the main driver behind this and will this postponement be enough?

I think the push back on the deadline has been broadly welcomed and you could almost hear the collective sigh of relief! Firms have had to re-focus IT departments to manage remote working and support the critical business processes. At the same time, project teams are dispersed and unable to fully implement development, testing and other preparations for SFTR. Clearly, the April deadline became unachievable very quickly, especially when you remember that whilst this deadline was for the biggest firms only, the complex network of data transfer required between firms in order to prepare reports was much wider. The European Securities and Markets Authority (ESMA) statement clarifying the backloading confusion was also appreciated across the market. At least now there is some breathing space.

To be honest, I don't think the delay will be long enough. In the UK, the politicians are talking about 12 weeks to reach the peak of the coronavirus spread and this will take us toward the end of June. Even if we were able to resume normal business in week 13, which of course we won't, that would give the first tier banks only two or three weeks to get ready. Of course, many of their counterparties will also need to prepare for the timely information flows that will be required - particularly from non-disclosed programmes.

I appreciate this is a UK perspective and the reporting requirements are much wider but across Europe the impact of the virus is apparent. In its statement, ESMA paved the way for further delays, but I am surprised that the first delay wasn't for longer given the status of the virus when the announcement was made.

Tell us about your involvement with Consolo and what your main area of focus will be?

I have been involved with Consolo since the firm was established about six years ago. I have always focused on business consultancy and training, but last year it became clear we needed to focus on, and further develop our training offerings and we launched the Consolo Academy. Previously, most of our training was provided as in-house bespoke courses on a broad range of subjects, including securities finance, thereby allowing the client to define the agenda and ensure that all their staff gets the same training.

However, it has become obvious that firms also need generic training courses to provide initial and refresher training to individuals, so we decided to launch a series of fundamental courses which are open for anyone to attend. These courses have a different feel to them because there is a mix of firms in the room with different perspectives.

I like to keep courses as interactive as possible so it's great for attendees to hear how other firms manage aspects of their business. The success of the fundamentals courses leads us to provide some more advanced courses open sessions, focused on particular aspects of securities finance and the broader financial markets which will be announced in the second half of the year.

We understand you are looking at online courses, how will this work?

We are very excited about the online offering, which we are hoping will be launched in April (COVID-19 allowing). We recognise that firms need to be able to provide staff with high quality, CPD-accredited technical training but often struggle to release individuals for a full, or even half a days training. By providing an online option, individuals can choose the relevant training that meets their own needs and attend the course when it's convenient for the business.

The courses will be modular and individuals can choose a single module or a suite, depending on their personal requirements. Each module will represent around three hours training opportunity, will be fully CPD-accredited and, importantly, can be attended at the students convenience.

We considered longer courses that commit staff for a period of time but decided a menu based offering where the student can select just the subjects that are relevant to them to be a more flexible way of learning. Each module has an expert trainer and questions can be submitted to the trainer on-line at any time.

In response to the COVID-19 crisis we will also be running some online webinar based courses from April so that anyone working from home can spend some time learning the market fundamentals. Dates for these will be announced in the coming weeks.

Reset and re-engage

Sunil Daswani
Head of securities finance solutions
MarketAxess

With SFTR's first go-live phase now combined with the second in July, firms have time to get their house in order and should not be complacent, argues MarketAxess

What is your view on the decision to unofficially move SFTR's go-live to July?

Any delay is good news as it will give people more time, however, the regulation was initially devised to allow regulators to better understand what goes on in markets, particularly during unprecedented times when increased volatility and market disruption may occur. It is at times like this that regulators are most concerned. Regulation is important in providing transparency and providing regulators with a clear view of what is happening and to identify where potential issues can be avoided. Therefore, a delay is just that, whether now or in three months' time the Securities Financing Transactions Regulation (SFTR) reporting will commence. We know regulations such as SFTR are here to stay and so it is important we continue to prepare for it and other such similar regulations.

How would you describe the market's preparedness?

Organisations continue to make strides in the implementation of SFTR, however, testing across the industry has been a challenge due to varying degrees of differences for firms in terms of the phased go-live dates, the asset classes for reporting being impacted, the volumes to report and the size of the organisation. With the recent announcement from the European Securities and Markets Authority (ESMA), the delay will allow now for the much needed additional testing.

What are the key concerns your clients have and how easily are these addressed?

The volume of reporting in terms of transactions and the immense amount of data required per transaction is a key concern for clients.

Clients have spent time selecting vendor solutions, and are not always on the same vendor platform as their counterparties. Where this is the case, the exchange of data needs to be near real time, efficient, easy to access and process. At MarketAxess, our unique trade identifier (UTI) portal is modular and part of the full front-to-back SFTR solution which allows counterparties to do just this – they can receive, send, or do both on the platform no matter what vendor platform they have selected.

With the revised deadline set, do you feel the increased time will enable a smoother introduction of the regulation or would the associations' preferred choice of October have been better?

The coronavirus has undoubtedly put a strain on firms who go live in April. However, organisations were making positive strides in the implementation of SFTR and this news should help firms maintain preparations amid a difficult climate, and will allow for much needed additional testing.

Any tips for the smooth implementation and running of a business reporting and moving forwards with this regulation?

Firms should continue to build on momentum already started in preparing for SFTR. We would recommend engaging with vendors and selecting early – the sooner firms select, the sooner they can begin testing and identify any potential issues.

Firms should also participate in industry working groups, it's important to be vocal and this is a key part of working together as an industry, to learn and work together for smooth implementation.

In addition, firms must ensure testing begins as soon as possible between counterparties. The challenge for firms is to consistently report on both sides of the transaction. This means being able to not only generate and share UTIs but also accept them from a counterparty.

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Bespoke Financing Solutions

In the 4th quarter of 2019, we introduced a non-recourse financing solution for holders of corporate bonds from Asian and European based issuers.

Due to the combination of recent events, we have seen a dramatic increase in financing requests from holders of these securities.

Working closely with our trade partners, we have structured a bespoke financing solution to provide liquidity for qualified investors and corporates which has generated significant interest.

The solution allows bond holders to access the equity held in their assets and create liquidity in a timely manner which not only enables the bond holders to hedge against the downgrading of assets and issuers but also enhances the ability to deploy liquidity in a volatile and potentially lucrative market condition.

> *"The situation in the bond markets commands a shift in the paradigm. This financing solution serves that purpose and provides options outside the box"*

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- £ — Execution under management of a regulated onshore investment manager in Hong Kong
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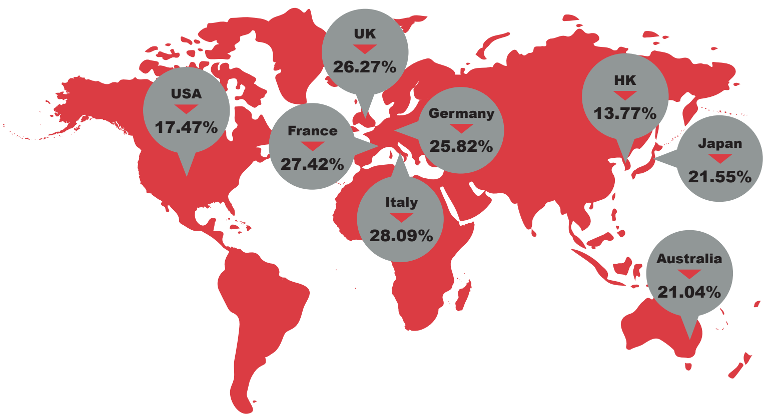
- ¥ — Non-recourse financing
- SGD — Accelerated KYC and DD process

Risk Mitigation?

While financing is a common strategy to release equity in assets and create additional liquidity for bond holders, our trade partners also established a direct buy/sell trading protocol allowing bond holders to further mitigate against any downside risk by purchasing bonds from holders at a competitive price. Our trade partners execute their financing and buy/sell execution through high profile, globally recognised institutions providing a streamlined and standardised process for efficient and expedient closing.

For further information, see contact details below.



Main index changes 2 Jan 20 – 12 Mar 20

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Coming and goings at Eurex, CloudMargin, Stonewain and more

Stonewain Systems has brought on Justin Thiron and Jennifer Zorzin as senior project managers.

Thiron joins from S&P Global Platts where he served as a new business director, while Zorzin makes the move from BMO Global Assets Management's agency lending business.

The new hires come in response to strong demand for its products and services, which includes its flagship securities finance platform, Spire.

Thiron will be based out of the New Jersey office, covering several clients and opportunities in the greater tri-state area.

He brings experience from time as head of North American business development for Pirum Systems as well as eight years as EquiLend's vice president, business development.

A Stonewain spokesperson tells SLT: "Justin Thiron has a very impressive track record in securities finance with several years at EquiLend, J.P. Morgan and Pirum. His subject matter expertise, background in securities lending operations, and strong ties to the business will serve us well at Stonewain."

Elsewhere, Zorzin will operate remotely and is based in Wisconsin, US.

Stonewain says it is seeking to tap into her experience of running operations for BMO as well as her broader experience in the global securities lending business.

"We feel very fortunate to add Jennifer Zorzin to the team at Stonewain. Jenny has always been a highly valued client of Stonewain and adding her to our roster will bolster our product and our ability to support the growing demand for our products and services" the Stonewain spokesperson adds.

Eurex has appointed Nick Barnes as senior vice president for fixed income, derivatives, funding and financing sales.

Barnes is based in London and reports to Jonathan Lombardo, head of fixed income derivatives funding and financing sales in Northern Europe.

The former Barclays repo trader joins from MarketAxess where he served in repo sales and business development for just over 18 months.

Before that, Barnes held positions at Skadi as a consultant from 2015 for three years, he then served as a repo and IRS broker at ICAP for just shy of two years.

Throughout his career, Barnes has held a number of roles but the most notable were his two spells at Barclays Capital where he served for a combined 16 years as a repo funding trader and fixed income salesperson.

The US Securities and Exchange Commission (SEC) brought on Viktoria Baklanova as a senior financial analyst in the analytics office specialist unit.

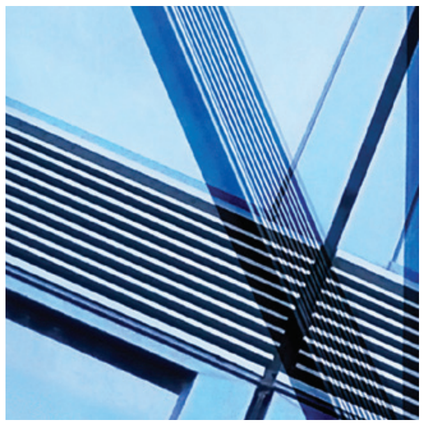
Baklanova, is based in New York and joins the SEC from the Federal Reserve Bank where she served as a counterparty risk senior associate for just over a year.

Before that, she was a senior financial analyst at the office of financial research, department of the treasury.

Baklanova has also held positions at Acacia Capital where she did a short stint as chief credit officer. She spent time with Fitch Ratings as a senior director and Moody's Investor Services where she served as an analyst.

CloudMargin has named Miriam Marascio as its head of client services

Reporting to CloudMargin CEO Stuart Connolly, Marascio will be responsible for the end-to-end care of the firm's clients, including onboarding, support and ongoing relationship management.



Marascio joins CloudMargin from ClearStream Banking where she has spent the past 14 years in client services roles. In her most recent role, she worked as client services president and global project manager in London.

Commenting on the appointment Connolly says: “We are extraordinarily fortunate to add Miriam Marascio to our management team in this critical role, which expands on our previous initiatives with a dedicated relationship management function.

“At the same time, her leadership and focus on our strategic direction will help us remain at the forefront of best practices and ensure that our client-facing processes are efficient and scalable.”

enfusion

Enfusion Systems has appointed Madalin Prout as vice president for relationship management.

Prout, who is based in Hong Kong, joins Enfusion from FIS (formerly SunGard) where she served in a number of roles since 2010, including spending the past three years as director, securities finance for Asia Pacific.

Before that, she was a senior account manager for Europe, the Middle East and Africa from June 2010 to January 2016.

Prout also held positions as a relationship manager at BT between 2007 and 2010.

Kevin Lo Primo to depart Cowen

Cowen’s global co-head of prime brokerage Kevin Lo Primo to leave after nearly four years in the role.

Confirmation of the departure follows the acquisition of Lo Primo’s previous employer and Cowen’s European competitor Global Prime Partners (GPP) in February.

It is unknown if Lo Primo’s departure is connected to Cowen’s plans to expand its prime brokerage services through the integration of its team with the brokerage arm of GPP.

The agreement included the transition of all GPP’s prime brokerage team, including personnel from the sales, operations, client service, onboarding and trading teams to Cowen.

Earlier roles in Lo Primo’s 37-year career included an 18-year stint at Goldman Sachs where he was head of prime brokerage product development and client services international.

Before that he served at Merrill Lynch as co-head of prime brokerage international for 18 months.