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 (Text with EEA relevance)

CHAPTER III

UNCOVERED SHORT SALES

Article 14

Restrictions on uncovered sovereign credit default swaps

1 A natural or legal person may enter into sovereign credit default swap transactions only where that transaction does not lead to an uncovered position in a sovereign credit default swap as referred to in Article 4.

2 A competent authority may temporarily suspend restrictions referred to in paragraph 1, where it has objective grounds for believing that its sovereign debt market is not functioning properly and that such restrictions might have a negative impact on the sovereign credit default swap market, especially by increasing the cost of borrowing for sovereign issuers or affecting the sovereign issuers' ability to issue new debt. Those grounds shall be based on the following indicators:

- a a high or rising interest rate on the sovereign debt;
- b a widening of interest rate spreads on the sovereign debt compared to the sovereign debt of other sovereign issuers;
- c a widening of the sovereign credit default swap spreads compared to the own curve and compared to other sovereign issuers;
- d the timeliness of the return of the price of the sovereign debt to its original equilibrium after a large trade;
- e the amounts of sovereign debt that can be traded.

The competent authority may also use indicators other than those set out in points (a) to (e) of the first subparagraph.

Before suspending restrictions under this Article, the relevant competent authority shall notify ESMA and the other competent authorities of the proposed suspension and the grounds on which it is based.

A suspension shall be valid for an initial period not exceeding 12 months from the date of its publication on the website of the relevant competent authority. The suspension may be renewed for periods not exceeding 6 months if the grounds for the suspension continue to apply. If the suspension is not renewed by the end of the initial period or of any subsequent renewal period, it shall automatically expire.

ESMA shall, within 24 hours of the notification by the relevant competent authority, issue an opinion on the intended suspension or on the renewal of that suspension, irrespective of whether the competent authority has based the suspension on the indicators set out in points (a) to (e) of the first subparagraph or on other indicators. Where the intended suspension or renewal of a suspension is based on the second

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subparagraph, that opinion shall also include an assessment of the indicators used by the competent authority. The opinion shall be published on ESMA's website.