

STATEMENT

Statement on preparatory work of the European Securities and Markets Authority in relation to CFDs and binary options offered to retail clients

The European Securities and Markets Authority (ESMA) is issuing this statement to provide an update on its work in relation to the provision of contracts for differences (CFDs), including rolling spot forex, and binary options to retail clients.

ESMA has been concerned about the provision of speculative products such as CFDs, including rolling spot forex, and binary options to retail clients for a considerable period of time and has conducted ongoing monitoring and supervisory convergence work in this area. Some competent authorities have also adopted national measures to limit the provision of these products to retail clients.

Notwithstanding these actions, ESMA remains concerned that the risks to investor protection are not sufficiently controlled or reduced. Further to the ESMA statement published in June 2017¹, ESMA is considering the possible use of its product intervention powers under Article 40 of MiFIR² to address these investor protection risks. In particular, ESMA is considering measures to:

1. prohibit the marketing, distribution or sale to retail clients of binary options; and
2. restrict the marketing, distribution or sale to retail clients of CFDs, including rolling spot forex.

The restrictions on CFDs currently under review are:

- leverage limits on the opening of a position between 30:1 and 5:1, whose limit will vary according to the volatility of the underlying asset;
- a margin close-out rule;

¹ ESMA35-36-885 Statement on preparatory work of the European Securities and Markets Authority in relation to CFDs, binary options and other speculative products published 29 June 2017 (<https://www.esma.europa.eu/document/product-intervention-general-statement>).

² Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, *OJ L 173, 12.6.2014, p. 84–148*.



- negative balance protection to provide a guaranteed limit on client losses;
- a restriction on benefits incentivising trading; and
- a standardised risk warning.

ESMA will conduct a brief public consultation in January 2018 on this matter.

Any product intervention measure adopted by ESMA under Article 40 of MiFIR can have an initial duration of up to three months and is renewable.

Notes for editors

1. [ESMA35-36-885 Statement on preparatory work of the European Securities and Markets Authority in relation to CFDs, binary options and other speculative products](#) 29 June 2017
2. [ESMA35-36-794 Q&A - Relating to the provision of CFDs and other speculative products to retail investors under MiFID](#) 31 March 2017
3. [ESMA/2016/1166 Warning about CFDs, binary options and other speculative products](#) 25 July 2016
4. [MiFIR Product Intervention Powers](#)
5. ESMA's mission is to enhance investor protection and promote stable and orderly financial markets.

It achieves these objectives through four activities:

- i. assessing risks to investors, markets and financial stability;
 - ii. completing a single rulebook for EU financial markets;
 - iii. promoting supervisory convergence; and
 - iv. directly supervising specific financial entities.
6. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

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