



HELLENIC REPUBLIC
CAPITAL MARKET COMMISSION

Decision
7B/847/28.6.2019
of the Board of Directors

Subject: Prohibition of the marketing, distribution, and sale of binary options to retail clients.

**THE BOARD OF DIRECTORS
OF THE HELLENIC CAPITAL MARKET COMMISSION**

Having considered:

1. The paragraph 1 of Article 42 of Regulation (EU) 600/2014.
2. Article 21 of the delegated Regulation (EU) 2017/567.
3. Article 67 par. 3 (k) of Greek law 4514/2018 (Government Gazette A 4514/2018).
4. Article 78 par. 1 (g) of Greek law 1969/1991 (Government Gazette A 167/1991).
5. Article 90 of Presidential Decree 63/2005 "Codification of the legislation on Government and governmental bodies" (Government Gazette A 98/2005).
6. The paragraph 2 of Article 13 of Greek law 2166/1993 (Government Gazette A 137/1993), as amended by par. 3 of Article 18 of Greek law 2198/1994 (Government Gazette A 43/1994) and replaced by par. 6 of Article 39 of Greek law 2324/1995 (Government Gazette A 146/1995).
7. The decision (EU) 2018/795 of the European Securities and Markets Authority ("ESMA") on the prohibition of the marketing, distribution, and sale of binary options to retail clients within the Union.
8. The decision (EU) 2018/1466, by which ESMA amended and renewed the decision (EU) 2018/795.
9. The decision (EU) 2018/2064, by which ESMA amended and renewed the decision (EU) 2018/1466.
10. The decision (EU) 2019/509, by which ESMA amended and renewed the decision (EU) 2018/1466 and the decision (EU) 2018/2064.
11. The fact that there is significant concern about the protection of investors from the marketing, distribution and sale of binary options to retail clients, as identified by ESMA and analyzed in its abovementioned decisions referred to in points 4 to 7 and therefore the condition in point (a)(i) of paragraph 2 of Article 42 of Regulation (EU) 600/2014 is met.
12. That the existing regulatory requirements under Union legislation do not remove the serious concern for investors' protection as identified by ESMA and analyzed in its abovementioned decisions referred to in points 4 to 7 and therefore the condition in point (a)(i) of paragraph 2 of Article 42 of Regulation (EU) 600/2014 is met. In addition, there are no other national regulations to address the issue.

14. That the Hellenic Capital Market Commission has properly consulted with the competent authorities in other Member States and therefore the condition of point (d) of paragraph 2 of Article 42 of Regulation (EU) 600/2014 is met.

15. That the measure does not discriminate against services or activities provided by another Member State and therefore the condition of point (e) of Article 42(2) of Regulation (EU) 600/2014 is met.

16. That no evidence has come to the attention of the Hellenic Capital Market Commission that indicates that there are binary options that pose a serious threat to the orderly functioning and integrity of the natural physical agricultural market and therefore the condition of point (f) of paragraph 2 of Article 42 of Regulation (EU) 600/2014 is met.

17. That in case the conditions of Article 42 of Regulation (EU) 600/2014 no longer apply, the Hellenic Capital Market Commission will withdraw the restrictions imposed by this decision, in accordance with paragraph 6 of Article 42 of Regulation (EU) 600/2014.

18. That the provisions of this decision do not cause for any expenses in the State Budget, decides unanimously:

Article 1

Prohibition on binary options in respect of retail clients

1. The marketing, distribution or sale to retail clients of binary options is prohibited.

2. For the purposes of paragraph 1, irrespective of whether it is traded on a trading venue, a binary option is a derivative that meets the following conditions:

(a) It must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event;

(b) It only provides for payment at its close-out or expiry;

(c) Its payment is limited to: (i) a predetermined fixed amount or zero if the underlying of the derivative meets one or more predetermined conditions, and (ii) a predetermined fixed amount or zero if the underlying of the derivative does not meet one or more predetermined conditions.

3. The prohibition in paragraph 1 does not apply to:

(a) a binary option for which the lower of the two predetermined fixed amounts is at least equal to the total payment made by a retail client for the binary option, including any commission, transaction fees and other related costs;

(b) a binary option that meets the following conditions: (i) the term from issuance to maturity is at least 90 calendar days; (ii) a prospectus drawn up and approved in accordance with Greek law 3401/2005, as in force, or Directive 2003/71/EC or the Regulation (EU) 2017/1129 is available to the public; and (iii) the binary option does not expose the provider to market risk throughout the term of the binary option and the provider or any of its group entities do

not make a profit or loss from the binary option, other than previously disclosed commission, transaction fees or other related charges.

Article 2

Prohibition of participating in circumvention activities

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the requirements in Article 1, including by acting as a substitute for the binary option provider.

Article 3

Entry into force and application

This Decision shall take effect on the day of its adoption and shall apply from 4 July 2019.

This decision shall be published in the Government Gazette.

The President

Charalambos Gotsis