



HELLENIC REPUBLIC
CAPITAL MARKET COMMISSION

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

Subject: Restrictions on the marketing, distribution and sale of contracts for differences (CFDs) to retail customers.

**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 para. 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) 2018/796 of the European Securities and Markets Authority ("ESMA") on the temporary restriction of Contracts for Difference (CFDs) in the Union.
8. The decision (EU) 2018/1636, by which ESMA amended and renewed the decision (EU) 2018/796.
9. The decision (EU) 2019/155, by which ESMA renewed the decision (EU) 2018/1636.
10. The decision (EU) 2019/679, by which ESMA renewed the decision (EU) 2018/1636 and Decision (EU) 2019/155.
11. The fact that there is significant concern about the protection of investors from the marketing, distribution and sale of contracts for differences 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 CFDs 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

Definitions

For the purposes of this Decision, the following definitions shall apply:

(a) 'contract for differences' or 'CFD' means a derivative other than an option, future, swap or forward rate agreement, the purpose of which is to give the holder a long or short exposure to fluctuations in the price, level or value of an underlying, irrespective of whether it is traded on a trading venue, and that 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) 'excluded non-monetary benefit' means any non-monetary benefit other than, insofar as they relate to CFDs, information and research tools;

(c) 'initial margin' means any payment for the purpose of entering into a CFD, excluding commission, transaction fees and any other related costs;

(d) 'initial margin protection' means the initial margin determined by Annex I;

(e) 'margin close-out protection' means the closure of one or more of a retail client's open CFDs on terms most favourable to the client in accordance with Articles 24 and 27 of Directive 2014/65/EU when the sum of funds in the CFD trading account and the unrealised net profits of all open CFDs connected to that account falls to less than half of the total initial margin protection for all those open CFDs;

(f) 'negative balance protection' means the limit of a retail client's aggregate liability for all CFDs connected to a CFD trading account with a CFD provider to the funds in that CFD trading account.

Article 2

Temporary restriction on CFDs in respect of retail clients

The marketing, distribution or sale to retail clients of CFDs is restricted to circumstances where at least all of the following conditions are met:

- (a) the CFD provider requires the retail client to pay the initial margin protection.
- (b) the CFD provider provides the retail client with the margin close-out protection.
- (c) the CFD provider provides the retail client with the negative balance protection.
- (d) the CFD provider does not directly or indirectly provide the retail client with a payment, monetary or excluded non-monetary benefit in relation to the marketing, distribution or sale of a CFD, other than the realised profits on any CFD provided; and
- (e) the CFD provider does not send directly or indirectly a communication to or publish information accessible by a retail client relating to the marketing, distribution or sale of a CFD unless it includes the appropriate risk warning specified by and complying with the conditions in Annex II.

Article 3

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 2, including by acting as a substitute for the CFD provider.

Article 4

Entry into force and application

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

ANNEX I

INITIAL MARGIN PERCENTAGES BY TYPE OF UNDERLYING

- (a) 3,33% of the notional value of the CFD when the underlying currency pair is composed of any two of the following currencies: US dollar, Euro, Japanese yen, Pound sterling, Canadian dollar or Swiss franc;
- (b) 5% of the notional value of the CFD when the underlying index, currency pair or commodity is: (i) any of the following equity indices: Financial Times Stock Exchange 100 (FTSE 100); Cotation Assistée en Continu 40 (CAC 40); Deutsche Bourse AG German Stock Index 30 (DAX30); Dow Jones Industrial Average (DJIA); Standard & Poors 500 (S&P 500); NASDAQ Composite Index (NASDAQ), NASDAQ 100 Index (NASDAQ 100); Nikkei Index (Nikkei 225); Standard & Poors / Australian Securities Exchange 200 (ASX 200);

EURO STOXX 50 Index (EURO STOXX 50); (ii) a currency pair composed of at least one currency that is not listed in point (a) above; or (iii) gold;

(c) 10% of the notional value of the CFD when the underlying commodity or equity index is a commodity or any equity index other than those listed in point (b) above;

(d) 50% of the notional value of the CFD when the underlying is a cryptocurrency; or

(e) 20% of the notional value of the CFD when the underlying is:

(i) a share; or (ii) not otherwise listed in this Annex.

ANNEX II RISK WARNINGS

SECTION A

Risk warning conditions

1. The risk warning shall be in a layout ensuring its prominence, in a font size at least equal to the predominant font size and in the same language as that used in the communication or published information.

2. If the communication or published information is in a durable medium or a webpage, the risk warning shall be in the format specified in Section B.

3. If the communication or published information is in a medium other than a durable medium or a webpage, the risk warning shall be in the format specified in Section C.

4. By way of derogation to paragraphs 2 and 3, if the number of characters contained in the risk warning in the format specified in Section B or C exceeds the character limit permitted in the standard terms of a third party marketing provider, the risk warning may instead be in the format specified in Section D.

5. If the risk warning in the format specified in Section D is used, the communication or published information shall also include a direct link to the webpage of the CFD provider containing the risk warning in the format specified in Section B.

6. The risk warning shall include an up-to-date provider-specific loss percentage based on a calculation of the percentage of CFD trading accounts provided to retail clients by the CFD provider that lost money. The calculation shall be performed every three months and cover the 12-month period preceding the date on which it is performed ('12-month calculation period'). For the purposes of the calculation: a) an individual retail client CFD trading account shall be considered to have lost money if the sum of all realised and unrealised net profits on CFDs connected to the CFD trading account during the 12-month calculation period is negative; b) any costs relating to the CFDs connected to the CFD trading account shall be included in the calculation, including all charges, fees and commissions; c) the following items shall be excluded from the calculation: (i) any CFD trading account that did not have an open CFD connected to it within the calculation period; (ii) any profits or losses from

products other than CFDs connected to the CFD trading account; (iii) any deposits or withdrawals of funds from the CFD trading account.

7. By way of derogation from paragraphs 2 to 6, if in the last 12-month calculation period a CFD provider has not provided an open CFD connected to a retail client CFD trading account, that CFD provider shall use the standard risk warning in the format specified in Sections E to G, as appropriate.

SECTION B

Durable medium and webpage provider-specific risk warning

CFDs are complex instruments and come with a high risk of losing money rapidly due to leverage.

[insert percentage per provider]% of retail investor accounts lose money when trading CFDs with this provider.

You should consider whether you understand how CFDs work and whether you can afford to take the high risk of losing your money.

SECTION C

Abbreviated provider-specific risk warning

[insert percentage per provider]% of retail investor accounts lose money when trading CFDs with this provider.

You should consider whether you can afford to take the high risk of losing your money.

SECTION D

Reduced character provider-specific risk warning

[insert percentage per provider]% of retail CFD accounts lose money.

SECTION E

Durable medium and webpage standard risk warning

CFDs are complex instruments and come with a high risk of losing money rapidly due to leverage.

Between 74-89% of retail investor accounts lose money when trading CFDs.

You should consider whether you understand how CFDs work and whether you can afford to take the high risk of losing your money.

SECTION F

Abbreviated standard risk warning

Between 74-89% of retail investor accounts lose money when trading CFDs.

You should consider whether you can afford to take the high risk of losing your money.

SECTION G

Reduced character standard risk warning

74-89% of retail CFD accounts lose money.

This decision shall be published in the Government Gazette.

The President
Charalambos Gotsis