

## PUBLIC STATEMENT

### **Statement on preparatory work of the European Securities and Markets Authority in relation to CFDs, binary options and other speculative products.**

This statement provides an update on the European Securities and Markets Authority's (ESMA) work in relation to the sale of contracts for differences (CFDs), binary options and other speculative products to retail investors.

ESMA has been concerned about the provision of speculative products such as CFDs, rolling spot forex and binary options to retail investors for a considerable period of time and has conducted ongoing monitoring and supervisory convergence work in this area. In this context, ESMA has previously published a number of Q&As on CFDs and other speculative products<sup>1</sup> to foster supervisory convergence, having established a CFD Task Force in July 2015, and also issued a further investor warning on the sale of CFDs, binary options and other speculative products in July 2016<sup>2</sup>.

However, ESMA remains concerned that these supervisory convergence tools may not be sufficiently effective to ensure that the risks to consumer protection are sufficiently controlled or reduced. ESMA is therefore discussing the possible use of its product intervention powers under Article 40 of MiFIR to address investor protection risks in relation to CFDs, rolling spot forex and binary options.

ESMA is in the process of discussing the possible use of its product intervention powers under Article 40 of MiFIR, the possible content of any such measures, and how they could be applied. However, ESMA can confirm that the measures being discussed for (i) CFDs and rolling spot forex and (ii) binary options include proposals that take into account a number of measures that have been adopted or publicly consulted on by EU National Competent Authorities. These measures include leverage limits, guaranteed limits on client losses, and / or restrictions on the marketing and distribution of these products.

In accordance with Article 40 of MiFIR, any intervention measures must be approved by the ESMA Board of Supervisors and can only come into effect from 3 January 2018 at the earliest<sup>3</sup>.

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<sup>1</sup> [ESMA35-36-794 Q&A - Relating to the provision of CFDs and other speculative products to retail investors under MiFID](#) published 31 March 2017 |

<sup>2</sup> [ESMA/2016/1166 Warning about CFDs, binary options and other speculative products](#) published 25 July 2016

<sup>3</sup> [MiFIR Product Intervention Powers – Frequently Asked Questions](#)