

# EIOPA expects insurance undertakings to avoid instruments banned or restricted by ESMA

□Today, the European Insurance and Occupational Pensions Authority (EIOPA) published a [statement on consumer detriment resulting from policyholder exposure to contracts for differences \(CFDs\) and binary options](#). Considering potential future risks to policyholders, EIOPA expects insurance undertakings to avoid as possible direct underlyings of insurance-based investment products, instruments for which the European Securities and Markets Authority (ESMA) has issued a ban or restriction. In general, uses of product intervention powers in one sector should never be circumvented by repackaging the instruments that have been banned or restricted for offer in another sector.

At this juncture, there is no evidence of direct policyholder exposure to CFDs or binary options, whilst the possibility of such policyholder exposure to CFDs or binary options developing seems not highly probable. However, EIOPA's experience has been that unexpected and complex risks have increasingly been offered as potential units within unit-linked contract raising supervisory concerns. For this reason, EIOPA remains cautious on the matter.

Within its remit, EIOPA will use the available powers and measures to ensure the integrity, transparency, efficiency, and orderly functioning of financial markets and that customers' interests are adequately protected throughout the European Union. Specifically, EIOPA and National Competent Authorities will continue to monitor the market for insurance-based investment products, including those providing direct exposure to complex and risky underlyings, in view of whether other restrictions or bans should be necessary.

## **Background**

The European Securities and Markets Authority (ESMA) adopted temporary product intervention measures on the provision of contracts for differences (CFDs) and binary options to retail investors in the European Union. These intervention measures include a prohibition on marketing, distribution or sale of binary options as well as several restrictions on marketing, distribution or sale of CFDs to retail investors. [The measures have been published in the Official Journal of the European Union on 1 June 2018.](#)