

ESMA consults on potential CFD and binary options measures to protect retail investors

ESMA published a statement on 15 December 2017 explaining that it was considering the possible use of its product intervention powers under Article 40 of MiFIR to address investor protection concerns posed by the marketing, distribution and sale of CFDs and binary options to retail investors.

It is now seeking evidence from stakeholders on the impact of the following proposed measures:

Contracts for Difference

The specific potential measures under consideration are:

- i. Leverage limits on the opening of a position by a retail client. These would range from 30:1 to 5:1 to reflect the historical price behaviour of different classes of underlying assets;
- ii. A margin close out rule on a position by position basis. This would standardise the percentage of margin at which providers are required to close out a retail client's open CFD;
- iii. Negative balance protection on a per account basis. This would provide an overall guaranteed limit on retail client losses;
- iv. A restriction on the incentivisation of trading provided by a CFD provider; and
- v. A standardised risk warning by CFD providers. This would include an indication of the range of losses on retail investor accounts.

ESMA is also considering whether CFDs in cryptocurrencies should be addressed in the measures.

Binary Options

The potential measure under consideration is a prohibition on the marketing, distribution or sale of binary options to retail investors.

Next Steps

The submission period for responses will close at 23.59 Paris time on 5 February.