

# ESMA to renew restrictions on CFDs for a further three months from 1 February 2019

ESMA has carefully considered the need to extend the intervention measure currently in effect. ESMA considers that a significant investor protection concern related to the offer of CFDs to retail clients continues to exist. It has therefore agreed to renew the measure from 1 February 2019 on the same terms as the previous renewal decision that started to apply on 1 November 2018.

## **Renewal of restriction on CFDs**

The renewal was agreed by ESMA's Board of Supervisors on 18 December 2018 and includes renewing the following:

1. Leverage limits on the opening of a position by a retail client from 30:1 to 2:1, which vary according to the volatility of the underlying:
  - 30:1 for major currency pairs;
  - 20:1 for non-major currency pairs, gold and major indices;
  - 10:1 for commodities other than gold and non-major equity indices;
  - 5:1 for individual equities and other reference values;
  - 2:1 for cryptocurrencies;
2. A margin close out rule on a per account basis. This will standardise the percentage of margin (at 50% of minimum required margin) at which providers are required to close out one or more retail client's open CFDs;
3. Negative balance protection on a per account basis. This will provide an overall guaranteed limit on retail client losses;
4. A restriction on the incentives offered to trade CFDs; and
5. A standardised risk warning, including the percentage of losses on a CFD provider's retail investor accounts. The standardised risk warning will continue to allow use of the additional abbreviated risk warning introduced in the previous renewal decision for cases where the standard terms of a third party marketing provider have a character limit which is lower than the number of characters comprising the full or the abbreviated risk warning, provided that the advertisement also links to a webpage of the provider on which the full risk warning is disclosed.

## **Next steps**

ESMA intends to adopt the renewal measure in the official languages of the EU in the coming weeks, following which ESMA will publish an official notice on its website. The measure will then be published in the Official Journal of the EU and will start to apply from 1 February 2019 for a period of three

months.

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## [EU's internet domain name .eu – Council approves agreement on updated governance](#)

The **.eu** is the **EU's top-level internet domain name** under which any person, organisation or business based in the EU – and soon any European citizen living outside the EU as well – can register their own domain name. The **.eu governance** rules are being revised, and today member states' ambassadors **endorsed the provisional agreement** on this reform, which was reached by the presidency with the European Parliament on 5 December.

.eu is an essential building block for European online identity. It is important that its governance structures are up to date and future-proof, so that this easily recognisable label can continue to foster innovation and encourage European businesses and citizens to be active in the online single market.

*Norbert Hofer, Minister for Transport, Innovation and Technology of Austria, President of the Council*

The **.eu** top-level domain has over 700 accredited registrars worldwide and a registry operator based in Belgium. The revision maintains the current rule that the registry must be a non-profit organisation, as is also common practice elsewhere in the world.

The governance of the **.eu** domain will be made more transparent by setting up a multi-stakeholder group to advise the Commission on the implementation of the rules. Its members will include representatives from the private sector, civil society and international organisations, among others.

EU citizens will have the right to register a **.eu** top-level domain name regardless of their place of residence.

With nearly 4 million registrations, the **.eu** top-level domain is one of the largest international country code top-level domains (ccTLDs). It contributes to a safe and secure online environment and ensures a pan-European presence in the global digital marketplace.

### **Procedure and next steps**

The provisional agreement, which was reached in a single 'trilogue' meeting

with the Parliament, was confirmed by ambassadors in the Council's Permanent Representatives Committee.

The agreed text will now undergo legal and linguistic finalisation. It must then be formally adopted, first by the Parliament and then by the Council. Following adoption, the regulation will be published in the EU's Official Journal. It will enter into force 20 days after publication.

The rules will apply from 13 October 2022, except for the broadened registration possibility for EU citizens, which will become applicable six months after the entry into force of the regulation.

The reform is part of the EU's efforts to create a fully-fledged digital single market.

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## [EU to become more cyber-proof as Council backs deal on common certification and beefed-up agency](#)

EU cybersecurity certification will help you make informed choices.

**EU-wide cybersecurity certification** will soon be available for Internet-connected devices, enabling consumers to make more informed choices and making it easier for companies to market their smart products across Europe. Today, member states' ambassadors **approved the proposed Cybersecurity Act**, which will also upgrade the current European Agency for Network and Information Security (ENISA) into a **permanent EU Agency for Cybersecurity**. A provisional agreement on the new law was reached between the presidency and the European Parliament on 10 December.

### **Common cybersecurity certification**

The draft regulation creates a mechanism for setting up European cybersecurity certification schemes for specific **ICT processes, products, and services**. Certificates issued under the schemes will be **valid in all EU countries**, making it easier for users to gain trust in these technologies, and for companies to carry out their business across borders. Possible uses for such certificates are extremely varied, ranging from connected toys and smart wearables to industrial automation control systems and smart energy grids.

The actual certification schemes will be built on what already exists at international, European and national level. The schemes will be adopted by

the Commission, and implemented and supervised by national cybersecurity certification authorities.

Certification will be **voluntary** unless otherwise specified in EU law or member states' law. The Commission will regularly monitor the impact of certification schemes and assess their level of use by manufacturers and service providers.

There will be three different assurance levels, based on the level of risk associated with the intended use of the product. For the most basic level, it will be possible for manufacturers or service providers to carry out the conformity assessment themselves.

## **EU cybersecurity agency**

Greek-based ENISA has been contributing to the EU's network and information security since it was set up in 2004. The new rules will grant the agency a **permanent** mandate and clarify its role as the EU agency for cybersecurity. ENISA's current mandate was due to expire in June 2020.

ENISA will be given **new tasks** in supporting member states, EU institutions and other stakeholders on cyber issues. It will support EU policy on cybersecurity certification e.g. by playing a central role in the preparation of certification schemes. It will promote the uptake of the new certification system for example by setting up a website providing information on certificates.

The agency will also organise regular EU-level cybersecurity exercises, including a large-scale comprehensive exercise once every two years.

A national liaison officers network will be part of the mandate facilitating information sharing between ENISA and the member states.

The first EU legal act on cybersecurity, the 2016 directive on the security of network and information systems (NIS), already allocated ENISA a key role in supporting the implementation of the directive. For example, ENISA provides the secretariat for the network of computer security incident response teams (CSIRTs) set up under the NIS directive and actively supports the cooperation among the CSIRTs.

## **Procedure and next steps**

The provisional agreement on the proposal was endorsed by the meeting of ambassadors in the Council's Permanent Representatives Committee (Coreper).

The agreed text will now undergo legal and linguistic finalisation. It must then be formally adopted, first by the Parliament and then by the Council. Following adoption, the regulation will be published in the EU's Official Journal. It will enter into force 20 days after publication.

The rules will start to apply the same day, except for certain provisions related to cybersecurity certification which require member states to

designate certain authorities. To give member states the time needed to adapt their national structures, these provisions will become applicable two years after the regulation has been published.

**The agreed text will be made available here.**

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## **EU tackles plastic and other waste ending up in the sea: Council approves agreement on port reception facilities**

The EU is combating the dumping into the sea of plastic, derelict fishing gear and other rubbish from ships by **providing incentives for ships to discharge their waste in ports**. Member states' ambassadors today endorsed a reform which will also ensure the provision of **adequate waste reception facilities in ports** and clarify the rules to make sure member states interpret them in a more uniform manner. The presidency reached a provisional agreement with the European Parliament on the reform on 12 December.

This reform is crucial for ensuring cleaner seas. We are putting an end to any financial advantage ships may have had in dumping their waste into the sea.

*Norbert Hofer, Minister for Transport, Innovation and Technology of Austria, President of the Council*

Under the new rules, ships will have to pay an **indirect fee**, which will give them the right to deliver their waste to a port, and which will have to be paid regardless of whether or not they deliver any waste. This fee will also apply to fishing vessels and recreational craft, which means that it will also help prevent end-of-life fishing nets and passively fished waste going directly into the sea. The fee will be based on the principle of cost recovery.

In certain cases, however, if a ship delivers an exceptional amount of waste, an additional direct fee may be charged to ensure that the costs related to receiving such waste do not create a disproportionate burden for a port's cost recovery system.

In contrast, a reduced waste fee will be applied for short sea shipping and for 'green ships', meaning vessels that can demonstrate reduced quantities of waste and sustainable on-board waste management.

In addition, the new directive will improve the efficiency of maritime operations in port by cutting red tape for industry and other stakeholders. Its provisions will also be more consistent with EU waste legislation, for example by stipulating that ports must have waste reception and handling plans. Finally, the new directive will align EU legislation with the International Convention for the Prevention of Pollution from Ships (MARPOL), which has been amended since the current directive was adopted in 2000.

Landlocked member states which do not have ports or ships flying their flag will not be obliged to transpose the directive or certain parts of it.

The proposal was presented by the Commission in January 2018 as part of the 'circular economy package'.

## Procedure and next steps

The provisional agreement was endorsed by the meeting of ambassadors in the Council's Permanent Representatives Committee.

The agreed text will now undergo legal and linguistic finalisation. It must then be formally adopted, first by the Parliament and then by the Council. Following adoption, the regulation will be published in the EU's Official Journal. It will enter into force 20 days after publication. After that, member states will have two years to adopt national provisions to comply with the directive.

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## [Joint statement by First Vice-President Timmermans and Commissioner Jourová welcoming the agreement on a new approach to business insolvency in Europe](#)

First Vice-President Frans **Timmermans** and Commissioner for Justice, Consumers and Gender Equality, Věra **Jourová** welcomed the political agreement reached by the European Parliament and EU Member States on a set of European rules on business insolvency, which is particularly timely following the European Council and the Euro Summit last week:

*"Today's agreement on our proposal on insolvency is good news for companies, entrepreneurs and ultimately for investment and growth. Every year 200,000 companies go bankrupt throughout the EU, resulting in 1.7 million jobs lost.*

*The introduction of common rules at EU level will make insolvency, restructuring and discharge procedures more efficient, building on those systems that already work well in Member States. It will encourage businesses to restructure early so that value can be better preserved and more jobs saved. It will also give honest entrepreneurs a second chance to start a new business instead of being penalised for failing in their first business attempt. With these new rules, we are also removing barriers for cross-border investment and contributing to building a Capital Markets Union. We want to thank the European Parliament and the Member States for the good cooperation which made it possible to reach an agreement today. "*

## **Next steps**

The text must now be formally adopted by the European Parliament and the Council of the EU. Following final adoption, the Directive will be published in the EU's Official Journal and enter into force 20 days later.

## **Background**

This initiative is a key building block of the [EU Single Market](#) and the [Capital Markets Union](#) and is an essential step towards the completion of the [Banking Union](#). This agreement comes following the European Council and the Euro Summit, where progress was made on the deepening of Europe's Economic and Monetary Union.

The Directive in the area of restructuring, insolvency and discharge of debt focuses on **three key elements**:

- Common principles on preventive restructuring frameworks, which will help viable companies in financial difficulties negotiate a restructuring plan with their creditors, continue their activity and preserve jobs.
- Rules to allow honest insolvent entrepreneurs to benefit from a second chance, as they will be fully discharged of their debt after a maximum period of 3 years, with justified exemptions in order to prevent abuse. Currently, half of Europeans say they would not start a business because of fear of failure.
- Targeted measures for Member States to increase the efficiency of insolvency, restructuring and discharge procedures. This will reduce the excessive length and costs of procedures in many Member States, which results in legal uncertainty for creditors and investors and low recovery rates of unpaid debts.

## **For More Information**

[Insolvency proceedings](#)

[Banking Union](#)

[Capital Markets Union](#)