

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular addressed to Investment Firms and/or Applicants for an Investment Services Licence offering or intending to offer Financial Contracts for Difference (CFDs) and other speculative products

Background

The European Securities and Markets Authority [‘ESMA’] is currently taking an active role in moving towards greater supervisory convergence by promoting common supervisory approaches and practices which should be followed by the relevant national regulatory authorities of Member States. As a result of this initiative, ESMA has developed the *first batch* of [Q&As](#) dedicated to the topic of the provision of services to retail clients, under MIFID, in relation to CFDs, and to binary options and rolling spot forex (referred to as ‘other speculative products’).

ESMA deems CFDs and other speculative products as *complex financial products* and recognises that these financial instruments may be difficult for the majority of retail investors to understand the risks involved due to high leverage and automatic close-out features. The abovementioned financial instruments are also widely advertised and are widely disseminated due to considerable cross-border activity across Europe. Due to these issues, European regulatory authorities are seriously concerned about the protection of retail investors.

The first batch of Q&As focuses on the following topics:

- I. Key aspects relevant to the authorisation of firms offering CFDs and other speculative products to retail clients; and
- II. The treatment of certain conflicts of interest arising from particular business model features and practices commonly observed in firms offering CFDs and other speculative products to retail clients.

Target Audience

The Q&A document is primarily aimed at regulatory authorities. Nonetheless, this document is being circulated to investment firms offering or intending to offer CFDs and other speculative products to retail investors in order to become aware of the regulatory expectations in their regard.

The principles and requirements underpinning the content of the Q&A document will remain unchanged once MiFID II comes into effect.

Next Steps

ESMA will review and update these questions and answers on a regular basis. The Q&A document is intended to be continually edited and updated as and when new questions are received or new issues arise. The date each question was last amended is included after each question for ease of reference.

Contacts

Should you have any queries regarding the above, please do not hesitate to contact: Dr Sarah Pulis, Senior Manager – Conduct Supervisory Unit, Tel 25485232; spulis@mfsa.com.mt or Ms Sara Antonia Borg, Analyst – Conduct Supervisory Unit, Tel: 25485250; saborg@mfsa.com.mt.

Communications Unit
Malta Financial Services Authority
13th April 2016