

## Regulatory News Alert

### ESMA consultation on CFD and Binary options

06 February 2018

#### Context

On 18 January, ESMA took an initiative relying on the new MIFID II powers attributed to supervisory authorities, to consult on the potential ban or curbing of the trading and marketing of CFD (Contract for differences) and binary options.

This consultation, should it go through, would mark the first use of MIFID II Article 40 allowing Supervisory Authorities to suspend or restrict the access of some financial instruments to investors.

CFD, contracts where the investor bets on the divergence in price of two underlying securities and binary options, options where the pay-out is 0 or 1 depending on the occurrence of an event, have both been a longstanding source of supervisory complaints.

What is to be noted here is that these decisions might influence the industry and clients active in these segments, but above all, it might mark a new trend in the attitude of authorities.

The approaches retained by ESMA are to propose a ban on marketing and potentially trading of these types of instruments. The ensuing issue would be to evaluate if this is a first step or the only step and for retail clients only, might this be a starting point in product control or a one shot event.

#### Next steps

ESMA consultation that closed on the 5 February after only 3 weeks, an unusually short delay, now enters in its second phase analysis of responses and preparation of a formal position that will be applicable by member states competent authorities and to all stakeholders.



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