

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Update - 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

In a [circular](#) issued on 13th April 2016, MFSA had alerted investment firms and/or applicants for an Investment Services Licence offering or intending to offer Financial Contracts for Difference (CFDs) and other speculative products about ESMA's first batch of Q&As. These Q&As are dedicated to the topic of the provision of services to retail clients, under MIFID, in relation to CFDs, binary options and rolling spot forex (referred to as 'other speculative products').

ESMA has now published an updated version of its [Q&A document](#). This document includes a new question and answer which addresses conflicts of interests arising from business models that firms offering speculative products to retail investors may adopt.

ESMA clarifies the conflicts of interest aspects that National Competent Authorities should consider where an investment firm uses other parties to perform activities on its behalf. Furthermore ESMA highlights that investment firms must manage conflicts of interests that may arise as a result of remuneration between the parties, which could incentivise behaviours that are not in the best interests of retail clients.

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 second batch of Q&As builds upon the first batch of Q&As and features an additional question and answer on conflicts of interest aspects.

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.

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

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