

PRESS RELEASE

CySEC Imposes National Measures to Restrict the Marketing, Distribution and Sale of Contracts for Differences

- *Following a CySEC consultation, Cyprus national measures reflect ESMA temporary intervention measures*
- *Measures will enhance investor protection for all retail investors exposed to high-risk, speculative trading instruments*

NICOSIA, 27 SEPTEMBER 2019 - The Cyprus Securities and Exchange Commission ('CySEC') has today issued a Policy Statement imposing national measures to restrict the marketing, distribution and sale of contracts for difference ('CFDs').

In line with the European Securities and Markets Authority's ('ESMA') temporary intervention measures (together, the 'ESMA Measures') - which lapsed for the final time in August 2019 - CySEC has permanently introduced ESMA Measures into national law pursuant to Article 42 of Regulation (EU) No 600/2014, or MiFIR.¹

The Cyprus National Product Intervention Measures ('CyNPIMs') include:

- Restricting leverage limits from 30:1 to 2:1 on the opening of a position by a retail client;
- The adoption of the same leverage limits for all retail clients, with ranges from 2:1 to 30:1 dependent on the type and volatility of the underlying asset:
 - 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.ⁱ
- Introducing a margin close-out, when the clients' funds fall to 50% of the margin needed to maintain their open positions on their CFD account;
- Introducing a negative balance protection per account basis, so that retail clients cannot lose more than the total funds in their trading account;
- Prohibiting firms from offering cash or other inducements to encourage retail clients to trade; and,

¹ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.

- Requiring firms to provide standardised risk warnings informing potential customers the percentage of their retail client accounts.

Further to [Consultation Paper](#) (CP-02-2019) on 30 May 2019 which consulted interested parties on the proposals for CyNPIMs, and for the avoidance of doubt, CySEC has not imposed a risk-based approach to leverage limits.

In the case of new CFD providers and CFD providers that have not had any open CFD positions in the last twelve months (together, 'new CFD providers'), CySEC will enforce a standardised risk warning – and not a predefined percentage range based on other NCAs' data as prescribed in the ESMA Measures. For those firms with more than twelve months operating history, the risk warnings prescribed in the ESMA Measures will apply.ⁱⁱ

The MiFID II/MiFIR regime does not provide for the case where the National Product Intervention Measures ('NPIMs') adopted by different NCAs are not the same. As a result, CySEC has adopted a territorial approach to the cross-border marketing, sale and distribution of CFDs either through a branch or tied agent, in order to provide legal certainty for market participants operating in such jurisdictions where there may not be uniform application of the ESMA Measures and therefore the level of protection afforded to retail investors may not be the same.

Where there is such divergence between CyNPIMs and the measures introduced by another NCA, the content and application of CyNPIMs varies based on the country of residence of the client. Where an entity falling under CySEC's supervision markets, distributes or sells CFDs to a resident of:

- i Cyprus, CyNPIMs will have the content of the ESMA Measures except for the risk warning for new CFD providers;
- ii A Member State where the NCA has introduced NPIMs, CyNPIMs will have the content of the measures taken by the NCA of the respective Member State;
- iii A Member State where the NCA has not introduced NPIMs², CyNPIMs will have the content of the ESMA measures except for the risk warning for new CFD providers;
- iv A third country, CyNPIMs will have the content of the ESMA measures except for the risk warning for new CFD providers.

In practice, a limited number of Member States of the EU28 to date materially diverge from the ESMA Measures and therefore by equivalence, the CyNPIMs. CySEC will dedicate

² This category also includes Member States where the NCA has issued individual decrees to firms rather than a general decree.

supervisory resources to the application and enforcement of CyNPIMs. Retail investors located in the limited number of Member States that materially diverge from the ESMA Measures must be made fully aware of the level of protection afforded to them.

Background to regulatory action

Historically, investment firms have engaged in aggressive marketing techniques of CFDs, without providing adequate information on the risks involved in such speculative trading. Once such products were sold, retail investors were recurrently being allowed to trade with excessive levels of leverage (in some cases exceeding 1:500), incentivised to do so through the additional marketing of bonus promotions. The majority of such transactions resulted in firms' clients losing more than their entire invested capital, resulting in negative balances on trading accounts. In addition, it was found that retail investors were likely to underestimate the risks involved.

Following close supervision of the industry by CySEC via a dedicated Supervisory Action Plan launched in 2015 concerning the poor conduct of European CFD providers, CySEC has imposed record financial penalties on its regulated entities found to be in non-compliance with the laws it has in place to protect investors.

ENDS.

Notes to editors

ⁱ Summary of CyNPIM leverage limits

Type of Underlying Instrument	Initial Margin Protection	
	Initial Margin Protection	Leverage Limit
Major Currency Pairs	3,33%	30:1
Non-major currency pairs, gold and major indices	5%	20:1
Commodities other than gold and non-major equity index	10%	10:1
For individual equities and other reference values;	20%	5:1
Crypto assets	50%	2:1

ii **Summary of risk warnings**

CySEC will proceed with adopting the same risk warning as ESMA's except for the case of new firms that do not have twelve months of retail client trading data where we request that the percentage range is replaced with a reference stating that: *"The vast majority of retail client accounts lose money when trading in CFDs"* in the durable medium and webpage standard risk warning and in the abbreviated standard risk warning and with a reference stating that *"CFD-retail client accounts generally lose money"* in the reduced character standard risk warning.