

**TO** : Cyprus Investment Firms

**FROM** : Cyprus Securities and Exchange Commission

**DATE** : 4 June 2018

**CIRCULAR NO.** : C271

**SUBJECT** : ESMA Product intervention Decision on CFDs and Binary Options

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Further to the European Securities and Markets Authority's ("ESMA") [product intervention decision](#) on Contracts For Difference ("CFDs") and Binary Options, which was communicated by the Cyprus Securities and Exchange Commission ("CySEC") via an [announcement](#) dated 28 March 2018, CySEC wishes to inform the Cyprus Investment Firms ("CIFs") that the measures on [CFDs](#) and [Binary Options](#) have been published in the Official Journal of the European Union (OJ) on Friday 1 June 2018.

The product intervention measures in relation to Binary Options apply from 2 July 2018 and in relation to CFDs from 1 August 2018.

ESMA has published a [press release](#) and a [Q&A document](#) on Friday 1 June 2018 on this topic.

Further to a number of queries received by CySEC on whether the ESMA product intervention measures would also apply in relation to services offered to third country residents, CySEC has escalated the issue to ESMA who have confirmed that the application of the product intervention powers under Article 40 of MiFIR are not limited to clients who are based within the EEA. ESMA explained that the MiFID II/MiFIR regime does not discriminate on the basis of the location of clients, but rather it applies to services provided by investment firms which are authorized in the EEA.

This position is in line with the [European Commission's guidance](#) (EC's Guidance) on the territorial scope of the MiFID I regime.

Specifically according to Question 47.2 and the respective answer of the EC's Guidance:

*"Do MiFID rules apply to customers who are not resident in the EEA?"*

*Answer: "Yes. MiFID does not distinguish the obligations of firms to their clients according to the location of the client."*

CySEC also wishes to remind CIFs of the content of [Circular \(C268\)](#) and to urge them to ensure that they will fully comply with the ESMA product intervention decision.

Yours sincerely

Demetra Kalogerou  
Chairwoman of the Cyprus Securities and Exchange Commission