



# FCA statement on onshoring ESMA's temporary intervention measures on retail CFD and binary options products

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The European Securities and Markets Authority's (ESMA) temporary intervention measures prohibiting binary options and restricting contract for difference products (CFDs) sold to retail clients will become part of UK domestic law on exit day as part of the EU (Withdrawal) Act. UK firms are required to comply with ESMA's measures until they expire in April 2019.

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We continue to prepare for a range of scenarios for the UK's withdrawal from the EU. This includes one in which the UK leaves the EU on 29 March 2019 without a withdrawal agreement and implementation period having been ratified between the UK Government and the EU.

ESMA's decision notices that renew the temporary restriction on the marketing, distribution or sale of contracts for differences to retail clients and the temporary prohibition on the marketing, distribution or sale of binary options to retail clients will form part of UK law if EU law ceases to apply in the UK on 29 March 2019.

Firms are therefore required to comply with ESMA's decision notices until they expire on 1 April 2019 for binary options, and 30 April 2019 for CFDs. Our supervision of firms in this sector will continue to focus on compliance with ESMA's temporary product intervention measures.

We published two Consultation Papers (CPs) on 7 December 2018 to make ESMA's temporary product intervention measures permanent in the UK. Our proposed interventions are the same in substance as ESMA's, although we are also proposing to apply our rules to closely substitutable products. The consultations closed on 7 February 2019.

We are continuing to consider the consultation feedback. The FCA plans to make its decision on final rules so that we are able to publish a Policy Statement and any final Handbook rules in March 2019 for binary options, and April 2019 for CFDs and CFD-like options. We would expect our finalised rules to apply very shortly after publication to coincide with the dates that ESMA's restrictions expire.

If, for any reason, we are unable to finalise our domestic approach prior to ESMA's existing interventions ceasing to have effect in the UK, we will consider adopting temporary product intervention measures to replicate ESMA's. This will ensure no loss of protections for UK consumers in a period between ESMA's existing interventions ceasing to have effect in the UK, and finalising our domestic approach.

## Notes to editors

1. [CP18/38: Restricting contract for difference products sold to retail clients and a discuss of other retail derivative products](#)
2. [CP18/37: Product intervention measures for retail binary options](#)
3. References to CFDs include financial spread bets and rolling spot forex products.

4. 'Closely substitutable products' for CFDs include options that have similar pay-out structure and risk features as CFDs, which are sold under a variety of commercial labels, including turbo certificates, knock outs or delta ones. The proposed binary option ban would also include certain 'securitised' binary options. In both cases, these products were either carved out or not included in ESMA's temporary intervention measures.