ESMA_QA_1981

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01/06/2018

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Additional Information

Level 1 Regulation
Markets in Financial Instruments Regulation (MiFIR) Regulation (EU) No 600/2014 - Investor Protection and Intermediaries

Topic
Product intervention

Additional Legal Reference
ESMA Decision 2018/795; ESMA Decision 2019/796

Subject Matter
Aggregate liability

Question

What is considered the retail client’s aggregate liability in relation to negative balance protection?

ESMA Answer

01-06-2018

Original language

[ESMA 35-36-1262 Q&As on product intervention, question 5.4]

Negative balance protection means firms must limit the retail client’s aggregate liability for all CFDs connected to a CFD trading account to the funds in that CFD trading account. This implies that a client can never lose more money than the funds specifically dedicated to CFD trading.

Funds in a CFD trading account are limited to the cash in the CFD trading account and unrealised net profits from open positions. Funds in the CFD trading account do not include any funds or other assets held in client accounts for purposes other than CFD trading. Open CFD positions means *contracts for differences* contracts (as defined in Article 1(a) of the CFD Decision) entered in to by the client.

This does not prevent firms from using the profits from the closure of open positions, as required by *margin close-out protection* as defined in Article 1(e) of the CFD Decision.