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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
Securitised derivatives

Question
Are turbo certificates within the scope of the CFD Decision?

ESMA Answer

30-07-2018

Original language

[ESMA 35-36-1262 Q&As on Product intervention, Q&A 5.10]

The CFD Decision explains in Recital 10 that *inter alia* turbo certificates are not within its scope because, although similar to CFDs, they have different product features.

ESMA clarifies that turbo certificates, unlike CFDs, have all of the following features:

- Turbo certificates are not margined products and the investor cannot change the leverage of the turbo certificate by adding margin to or detracting margin from a specific trading account. Investors buy the turbo-certificate and are charged transactional fees, for entering the contract;
- Turbo certificates do not have a contingent liability for the retail client. In other words, after the purchase of the product, the retail client has no possibility of being liable for a further payment when the transaction is completed or the position is closed (other than commission, transaction fees or other related costs);
- Turbo certificates qualify as a transferable security as defined in Article 4 (1) (44) (c) of MiFID; and
- Turbo certificates are typically listed and traded on a regulated market or MTF, which includes additional transparency requirements.

However, ESMA acknowledges that turbo certificates have comparable features to CFDs, such as leverage. Firms should pay particular attention to the leverage made available to retail clients and consider whether the product is offered on terms that act in the best interests of the client. ESMA and NCAs will closely monitor whether new distribution trends in respect of turbo certificates raise similar investor protection concerns for retail clients and whether any firms attempt to circumvent ESMA's CFD Decision and will act as necessary.