# ESMA_QA_1989

**Submission Date**
30/07/2018

Status: Answer Published

## 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**
Structured finance products

**Question**
Are structured finance products within the scope of the BO Decision or the CFD Decision?

## ESMA Answer

30-07-2018

Original language

[ESMA 35-36-1262 Q&A Product intervention, Q&A 5.11]

No, structured finance products are not within the scope of the BO Decision or the CFD Decision.

"*Structured finance products*" are defined in Article 2(1)(28) of MiFIR as "*those securities created to securitise and transfer credit risk associated with a pool of financial assets entitling the security holder to receive regular payments that depend on the cash flow from the underlying assets"*. Article 1(a) of the CFD Decision, on the other hand, defines a CFD as a derivative with a "*long or short exposure to fluctuations in the price, level or value of an underlying*".

These are therefore two distinct types of products, one type that provides a payment originating from the cash flow of the underlying assets (structured finance products) and another type that provides a payment from the CFD provider based on differences in the price, level or value of an underlying and which depends on whether a long or short position has been taken (CFDs).