ESMA_QA_1990

Submission Date
28/09/2018

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
Rolling spot forex

Question

Do ESMA’s product intervention measures in relation to CFDs (in the CFD Decision) also apply to rolling spot forex?

ESMA Answer

28-09-2018

Original language

[ESMA 35-36-1262 Q&AS on Product intervention, Q&A 5.12]

Article 1(a) of the CFD Decision provides that a CFD is a derivative other than an option, future, swap or forward rate agreement, the purpose of which is to give the holder a long or short exposure to fluctuations in the price, level or value of an underlying, irrespective of whether it is traded on a trading venue, and that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event.

Paragraph 8 of the CFD Decision clarifies that rolling spot forex products are in scope. The CFD Decision applies to rolling spot forex that do not qualify as an option, future, swap or forward rate agreement. A forex derivative which uses the spot price as reference value and automatically rolls over at the end of the contract period and allows a party to terminate the contract other than by reason of default or another termination event is a CFD for the purposes of Article 1(a) of the CFD Decision.