

**OPINION OF THE EUROPEAN SECURITIES AND MARKETS AUTHORITY****of 24 November 2025****on the product intervention measures relating to turbos proposed by the German  
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)**

Having regard to Article 43(2) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 <sup>1</sup>

Having regard to Article 44(1) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC <sup>2</sup>,

THE EUROPEAN SECURITIES AND MARKETS AUTHORITY BOARD OF SUPERVISORS  
HAS ADOPTED THIS OPINION:

**1. Introduction and legal basis**

1. National competent authorities (NCAs) may take product intervention measures in accordance with Article 42 of MiFIR (Regulation (EU) No 600/2014). At least one month before a measure is intended to take effect, an NCA must notify all other NCAs and the European Securities and Markets Authority (ESMA) of the details of its proposed measure and the related evidence, unless there is an exceptional case where it is necessary to take urgent action.
2. In accordance with Article 43 of MiFIR, ESMA performs a facilitation and coordination role in relation to such product intervention measures taken by NCAs. After receiving notification from an NCA of its proposed measure, ESMA must adopt an opinion on whether it is justified and proportionate. If ESMA considers that it is necessary that other NCAs take measures, it must state this in its opinion.

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<sup>1</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

<sup>2</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

3. The German Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) notified ESMA on 15 October 2025 of its intention to take product intervention measures under Article 42 of that Regulation (national measures).
4. Prior to the notification, BaFin conducted a market study<sup>3</sup> and published a consultation paper<sup>4</sup> setting forth the rationale for the national measures.
5. The national measures set out in more detail below consist of a permanent restriction of the marketing, distribution or sale of turbos to retail clients domiciled in Germany. Turbos are high-risk leveraged products with which investors speculate that the prices of the underlying asset, such as a share, an index or a currency, will rise or fall. In particular, BaFin's measures would introduce (i) the requirement of a standardised risk warning; (ii) a prohibition to provide retail clients with any monetary or non-monetary benefit, including volume discounts, in connection with the acquisition of turbos, and (iii) a requirement to ensure basic turbo knowledge through a mandatory and standardised knowledge test.
6. BaFin's national measures define turbos as financial instruments within the meaning of Article 4(1)(15) of MiFID II in conjunction with Section C(1) of Annex I of MiFID II<sup>5</sup> taking the form of debt securities that use leverage to replicate the performance of an underlying, and that immediately expire when a defined knock-out threshold (a predefined price for the underlying) is reached.
7. Firstly, the national measures would introduce the following standardised risk warning:

*"On average, 7 out of 10 retail clients suffer losses when trading turbo certificates. Turbo certificates are highly risky products and are not suited for long-term investment strategies."*<sup>6</sup>
8. This standardised risk warning should be displayed in a clearly visible manner to retail clients immediately before any purchase of a turbo. In particular, all communications by intermediaries, issuers and providers regarding the marketing, distribution and sale of turbo certificates to retail clients domiciled in Germany must contain the risk warning. These persons must also ensure that third parties promoting trading in turbo certificates on their behalf also provide the risk warning in their communications regarding turbo certificates.

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<sup>3</sup> Available here: [BaFin - Current topics - BaFin-Studie: Vertrieb von Turbo-Zertifikaten an deutsche ...](#)

<sup>4</sup> The consultation is available at [BaFin - Current topics - Anhörung nach § 28 VwVfG vor Erlass einer Produktinterventionsmaßnahme ...](#)

<sup>5</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, pp. 349).

<sup>6</sup> The original version in German: "Im Durchschnitt erleiden 7 von 10 Kleinanlegern Verluste beim Handel mit Turbo-Zertifikaten. Turbo-Zertifikate sind hoch risikoreiche Produkte und nicht für langfristige Anlagestrategien geeignet."

9. Secondly, turbo providers would be prohibited from directly or indirectly providing retail clients with any monetary or non-monetary benefit, including volume discounts, in connection with the acquisition of turbos.
10. Thirdly, turbo providers would be required to ensure basic turbos knowledge through a mandatory knowledge test consisting of, as a minimum, six standardised multiple-choice questions relating to the main features of turbos. The knowledge test is considered to have been passed if the retail client answers all six questions correctly.
11. Retail clients should be informed of the results of the knowledge test immediately after taking the test and the correct answers should be displayed for questions that have been answered wrongly. Turbo providers can allow retail clients to repeat the knowledge test as many times as they wish but may also decide on stricter rules.
12. A pass at the knowledge test is valid for six months maximum. Turbo providers may however decide to shorten the validity period. After the validity period has expired, the knowledge test must be undertaken again
13. The national measures are intended to apply both to turbo providers authorised in Germany and to turbo providers authorised in another Member State that provide investment services and/or perform investment activities to clients domiciled in Germany by way of a branch or the freedom to provide services.
14. Turbo providers are (i) investment firms within the meaning of Article 4(1)(1) of Directive 2014/65/EU<sup>7</sup> and (ii) credit institutions within the meaning of Article 4(1)(27) of that Directive, when providing investment services and/or performing investment activities.
15. BaFin's national product intervention measures also apply to other types of entities and for which Article 42 of MiFIR is not directly applicable. This is because, under national German law, BaFin has the power to also address its national product intervention measures to entities that are outside the scope of Article 42 of MiFIR. This ESMA opinion does not apply to BaFin's national product intervention measures insofar as they apply to such entities.
16. The Dutch Authority for the Financial Markets (AFM) has previously taken product intervention measures relating to turbos<sup>8</sup>, however, they did not include the knowledge test required by BaFin and do include leverage limits.<sup>9</sup>

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<sup>7</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

<sup>8</sup> The ESMA opinion relating to the AFM measures can be found here: [esma35-43-2524\\_esma\\_opinion - afm pi measure - turbos.pdf](https://www.esma.europa.eu/press-material/press-conferences-and-news/esma-opinion-on-afm-product-intervention-measures-relating-to-turbos).

<sup>9</sup> Note in this context that the UK Financial Conduct Authority (FCA) issued national product intervention measures capturing CFD-like options. See the FCA press release <https://www.fca.org.uk/news/press-releases/fca-confirms-permanent-restrictions-sale-cfds-and-cfd-options-retail-consumers>.

17. BaFin informed ESMA that the national measures are expected to take effect no earlier than eight months from the date of publication of the measures.

## **2. BaFin's justification of the product intervention measures**

18. BaFin notified ESMA that it has complied with the conditions set out in Article 42 of MiFIR, including that it has assessed the relevance of all factors and criteria listed in Article 21 of Commission Delegated Regulation (EU) 2017/567<sup>10</sup> and taken into consideration all those that are relevant.

### *Description of the situation in Germany*

19. BaFin reported the following significant investor protection concerns observed in Germany:

#### General description of turbos

20. Turbos are complex structured products that are typically traded on a trading venue. They enable retail clients to participate disproportionately in the price movements of an underlying (such as a share or an index) and their design makes them both highly risky and highly complex to invest, long or short, in the value of the underlying asset. They are leveraged products, since they permit retail clients to take comparatively large positions while deploying only a small amount of capital. Their leverage is derived from the fact that the underlying is partly financed by the issuer, whereas the client must only pay the difference between the price of the underlying and a predefined financing threshold.
21. A turbo does not give the retail client any direct entitlement to the value of the underlying asset. Owing to the lack of a direct entitlement, the retail client is exposed to the credit risk that the issuer may fail to meet its obligations regarding the turbo. This means that clients could lose the capital they have invested or might only receive a low pro-rata payment from the insolvency assets if the issuer were to default. There is no such credit risk if the retail client invests directly in the underlying asset. This also means that retail clients trading in turbos are exposed not just to price risk but also to issuer default risk.
22. One fundamental feature of turbos is their knock-out threshold (also known as the knock-out barrier). If the turbo reaches this defined price level, it expires immediately and is closed out for a minimal amount. This feature contributes to the complexity of turbos. Reaching the knock-out threshold results in the immediate and total loss of the capital deployed, regardless of whether the underlying subsequently returns to performing in the manner expected by the retail client. This means that retail clients not only have to

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<sup>10</sup> Commission Delegated Regulation (EU) 2017/567 of 18 May 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions (OJ L 87, 31.3.2017, p. 90).

correctly assess the underlying's future performance but must also factor in short-term volatility that could lead to a knock-out event. Even where retail clients correctly assess the underlying's long-term performance, briefly exceeding the knock-out threshold can lead to a total loss. The knock-out mechanism is not a unique feature of turbos, but owing to the leverage, the value of the turbo becomes more sensitive to price changes of the value of the underlying asset, which increases the risk of sudden losses. This means that the use of a knock-out threshold with turbos does not fully mitigate the risk of unexpected or significant loss.

23. The retail investor can cash in on the indirect entitlement to the underlying asset by selling the turbo. In practice, the retail client will trade (virtually) exclusively with a single counterparty, which is often also referred to as a liquidity provider or market maker. Generally, this counterparty is the issuer of the turbo itself or a party that has made arrangements with the issuer on trading in turbos. Issuers or affiliated entities frequently act as market makers themselves and regularly provide bid and ask prices for the turbos that they themselves have issued. However, market makers are under no obligation to provide clients with price quotations, and price quotations for turbos may be suspended, especially when market volatility is high. As a result, clients may not always be able to buy or sell turbos even during exchange trading hours. In addition, retail clients are dependent on this counterparty for the pricing of the turbo. In principle, the counterparty is free to determine the bid and offer price, as well as the volume of the turbos requested and offered at its discretion. There is no such dependence on a single counterparty in order to be able to trade, nor the associated liquidity risk, if the retail client invests directly in the underlying asset.
24. In addition, issuers of turbos regularly reserve the right to terminate them ordinarily or extraordinarily. If issuers exercise this right, the current value of the turbo (if any) will be paid out without the client being able to influence this. There is no such termination risk if the retail client invests directly in the underlying asset.
25. Besides the greater price risk owing to the leverage, the financing structure of turbos also entails financing costs. The financing costs depend on the financing level and the interest rate of the financing. The issuer charges financing costs by adjusting the financing level of the turbo. As a result, all other things being equal, the value of a turbo declines over time since the financing costs are incurred on an ongoing basis. This procedure in effect means that the financing costs are added to the financing already provided, creating a snowball effect. The longer the term of the turbo, the greater the financing costs per unit of time will therefore be<sup>11</sup>. Although retail clients themselves are usually not borrowing money when buying a turbo, they do bear the costs of the financing structure of the turbo. That is because the financing costs will reduce the return on the

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<sup>11</sup> The interest rate is typically a benchmark interest rate increased with a margin, e.g. Euribor + 3%. For turbos short the interest rate is negative if the benchmark interest rate is higher than the margin.

turbo. Also, the issuer can change the level of the interest rate for the financing structure. There is no such interest rate risk if the retail client invests directly in the underlying asset.

26. Turbos are distributed under a variety of commercial names (“knock-out warrants”, “turbo warrants”, “turbo knock-outs”, “mini futures”, “wave XXL certificates” or “X turbos”). There are also different varieties of turbos (“smart turbo warrants”, “BEST turbo warrants” and “X turbo warrants”, for instance).
27. BaFin concludes for its market that the combination of features and risks of turbos and the costs and associated fees that are charged for trading in turbos are complex, involve high risks and lack transparency for retail clients. Retail clients usually do not have the in-depth knowledge that is necessary to understand the combination of features, risks and costs.

#### BaFin’s market survey of turbos

28. In 2024, BaFin conducted a market survey of trading in turbos in Germany. In the survey, BaFin evaluated reporting data collected in connection with Article 26 of MiFIR in relation to turbos and also requested information from issuers and turbo providers domiciled in Germany.<sup>12</sup>
29. BaFin’s findings with respect to German retail clients’ investment performance in relation to turbos are based on a comprehensive analysis of approximately 113 million transactions by German retail clients (German nationals) over a period of five years (1 January 2019 to 31 December 2023).

#### The turbos market in Germany

30. Based on the 2024 market study, BaFin estimates that roughly 543,000 different German retail clients traded turbos during the observation period, for a total of approximately 113 million transactions. Both numbers (number of German retail clients and transactions) more than doubled during the observation period.
31. In the last year of the observation period alone, approximately 237,000 German retail clients executed approximately 26.3 million transactions in turbos. This number represents a rise of approximately 110% with respect to the number of retail clients compared to 2019. In 2023 alone, German retail clients traded approximately 3.7 million different turbos. The issuers offered a wide variety of turbos, which differed in particular

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<sup>12</sup> BaFin’s market survey only examined transactions by German retail clients, who were defined as German nationals. The findings can be extrapolated to all retail clients regardless of their nationality. Based on these figures, it can be assumed with a view to all transactions by retail clients regardless of nationality that the number of retail clients who traded in turbos in the observation period and hence also the aggregate loss would be even higher than the figure determined in the market survey.

in relation to the underlying concerned and how close the knock-out threshold was. On 18 November 2024, the issuers surveyed by BaFin alone offered retail clients more than 800,000 different turbos.

32. German retail clients invested an (arithmetic) average of EUR 3,103 per purchase transaction in turbos in the observation period. Based on the number of purchase transactions for the entire observation period (62.9 million), the notional total purchase volume (trading volume of purchases of turbos) made by German retail clients in turbos in the observation period was approximately EUR 195 billion.
33. German retail clients mainly invested in turbos betting on price increases (long or call turbos) in the observation period. Turbos were traded by 20 different issuers in the observation period. Of these issuers, 18 are domiciled in Germany and two in Austria. The latter play only a subordinate role in terms of the transaction volume and the number of transactions executed by German retail clients (less than 0.1% of the transactions in turbos executed by German retail clients in the observation period). BaFin's market survey also reveals that German retail clients traded turbos at 1,294 turbo providers domiciled in the European Union over the entire observation period. A total of 1,147 of these turbo providers are domiciled in Germany.

#### Client performance when trading turbos in Germany

34. BaFin calculated the percentage of German retail clients who lose money trading in turbos. It amounted to 74.2%.<sup>13</sup> On average, German retail clients lost EUR 6,358 trading in turbos over the entire observation period.
35. Retail clients generating high loss ratios executed more transactions on average. Thus, the loss ratio for retail clients executing between one and 10 transactions in the observation period was roughly 70%. Retail clients executing between 10 and 100 transactions had a loss ratio of 76% and retail clients executing between 100 and 500 transactions had a ratio of approximately 83%. Retail clients executing between 500 and 1,000 transactions had a loss ratio of 88%, while the ratio for retail clients executing more than 1,000 transactions was 91%.
36. Multiplying the average loss per retail client by the absolute number of German retail clients trading in turbos in the observation period produces an absolute aggregate total loss for all German retail clients trading in turbos of more than EUR 3.4 billion for the entire observation period.

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<sup>13</sup> The loss ratio was calculated using all approximately 113 million transactions in turbos executed during the observation period by approximately 543,000 German retail clients. Retail clients were classified as "clients with losses" if their realised losses over the five-year observation period exceeded their realised gains overall. All transactions in turbos executed by the retail client in question were included in all cases.

### Trading in turbos in Germany

37. In addition to the Article 26 data on which BaFin relied for its market study, BaFin also addressed 22 requests for information to issuers of turbos and key turbo providers for the retail clients involved in Germany. The issuers surveyed accounted for more than 95% of the market for turbos in Germany. As turbos are usually not sold to German retail clients as recommended products as part of investment advice<sup>14</sup>, part of BaFin's request related to data on the proportion of negative appropriateness assessments (second subparagraph of Article 25(3) of MiFID II) in connection with the trading of turbos.
38. The turbo providers' answers to this question were extremely heterogeneous. At the level of all turbo providers surveyed, appropriateness assessments were negative for an average of 21% of retail clients but the proportion of negative appropriateness assessments ranged between 4.5% and 47%, depending on the turbo provider. However, at least two of the turbo providers surveyed said that approximately 90% of the retail clients whose appropriateness assessments in relation to turbos were negative traded in such products regardless.
39. BaFin found that the average leverage for turbos at the time of issuance was 46. Approximately 29% of the turbos issued in 2023 had a leverage at the time of issuance of less than 10, but roughly 12% had a leverage of more than 100. In some cases, the leverage of turbos was more than 1,000; this applied in particular shortly before a knock-out event occurred or when the price was close to the knock-out threshold.
40. BaFin found that the average term for turbos at the level of all German issuers surveyed was approximately 75 days. Slightly less than 6% of the turbos issued in 2023 had an actual term of a maximum of one calendar day. Roughly 77% of all turbos issued in 2023 had a term of less than six months.
41. By contrast, the evaluation of the reporting data performed during BaFin's market survey revealed that German retail clients hold turbos for an average of eight days. Approximately 70% of retail clients hold turbos for less than 24 hours. However, another 12% of retail clients hold turbos for more than 10 days, and 6% in fact hold them for longer than one month.
42. In addition, BaFin asked issuers for information on price quotations for turbos, especially with respect to suspensions of pricing, as part of its requests for information. All in all, pricing was suspended for 185,184 turbos in July 2024. Suspensions for longer than five minutes occurred in the case of 159,747 products. This corresponds to approximately 31% of the turbos from the issuers surveyed that were actively traded in July 2024. Suspensions for more than 30 minutes occurred in the case of 25,437 products (5% of

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<sup>14</sup> Turbos are usually distributed via non-advised services (execution services) and not with the provision of investment advice.

all actively traded turbos). On average, suspensions of pricing occurred for approximately 36.7% of all turbos that were actively traded in July 2024. The average duration of suspensions of pricing at the issuers surveyed was 382 seconds. The reason given for the suspension in an average of 66.3% of the cases was the restricted tradability or insufficient liquidity of the underlying.

43. As regards the costs for retail clients associated with turbos, the issuers surveyed reported average total costs of 8.2%. The calculations were based on the cost breakdown given in the key information document, taking the assumptions given in that document into account. These total costs include in particular the spread, the premium and possible other financing costs, but not securities account fees and trading fees. Total costs were less than 5% for roughly 56.4% of the turbos issued in 2023, between 6% and 10% for 15.3%, between 11% and 25% for 16.3%, between 26% and 50% for 7.7% and more than 50% for 4.2%.

#### Marketing of turbos in Germany

44. Turbos are actively promoted both by issuers or offerors<sup>15</sup> and by turbo providers. A total of 52% of the issuers polled in BaFin's market survey said that they actively promote turbos. In addition, 43% of the issuers surveyed stated that their promotions for turbos contain a concrete ISIN, i.e. that they advertise specific turbos. Turbos are promoted via a variety of channels. In addition to issuers', offerors' and turbo providers' own websites, search engine adverts and banners, a range of other websites and online portals and print media were mentioned. Turbos are also marketed via social media. In this case, issuers and offerors sometimes work together with third parties such as influencers and affiliate partners, or use agencies active in this area.
45. Issuers and offerors also promote turbos at investor fairs and stock exchange events where, for example, brochures and sales documents are distributed to retail clients. Issuers also partner with turbo providers to organise road shows for marketing turbos to retail clients.
46. Turbo providers receive payments from issuers/offerors for executing turbo transactions. These "kick-backs" are regularly paid for trades with an order volume of EUR 1,000 or more. Turbo providers either receive a fixed amount ranging between EUR 3.50 and EUR 13.40 or a percentage (e.g. 0.25%) of the concrete order volume.
47. In turn, turbo providers use a variety of (advertising) promotions to grant retail clients monetary or non-monetary benefits in connection with the acquisition of turbos. These benefits or bonuses are generally linked to a minimum payment, minimum investment

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<sup>15</sup> Within the meaning of Article 2(i) of Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12) (Prospectus Regulation).

volume or minimum number of transactions. In some cases, reduced fees based on the transaction volume are also granted. In addition, turbo providers regularly grant reductions or pay bonuses in connection with client acquisition, for example using “refer a friend” promotions.

*Existing Union law regulatory requirements do not sufficiently address the risks*

48. BaFin considers that existing regulatory requirements applicable to the marketing, distribution or sale of turbos do not sufficiently address the threat posed to retail clients by those products for the following reasons:

Adequate provision of information

49. BaFin has examined the requirements of fair client information under Article 24 of MiFID II and considers that those requirements are not suitable to address the significant investor protection issues posed by turbos. BaFin also considers that such issues cannot be sufficiently addressed by improved supervision or enforcement.
50. In particular, BaFin considers that improving information to retail clients does not prevent those clients from being exposed to the risk of total loss which is due to the characteristics of turbos. This is reflected in the high percentage of German retail clients suffering losses when trading turbos (75%) despite the existing requirements of fair client information, which shows that the complexity of turbos is such that, despite the provision of regulatory information, retail clients still find it difficult to understand turbos.
51. BaFin considers that only the disclosure of the average loss ratio (in the standardised risk warning), that was not provided to date, contributes making the risks of trading in turbos clearer and more transparent to retail clients.

Suitability and appropriateness requirements

52. BaFin notes that the suitability requirements set out in Article 25(2) of MiFID II are only applicable to the provision of investment advice and portfolio management. However, as turbos are typically not distributed in the context of investment advice or portfolio management, the suitability requirements are insufficient to address the risks identified.
53. Turbos are subject to the appropriateness assessment referred to in Article 25(3) of MiFID II. However, BaFin notes that even where the appropriateness assessment is properly performed and non-appropriateness has been demonstrated (and the relevant warning issued to the client), the requirements set forth in Article 25(3) of MiFID II cannot prevent a retail client from entering into the transaction.

54. BaFin's market survey demonstrated that at least two of the turbo providers polled stated that roughly 90% of German retail clients with a negative appropriateness assessment for turbos traded in turbos nonetheless.
55. Similarly, pursuant to Article 25(3) of MiFID II, turbo providers can also trade with clients after issuing a simple warning in those cases in which clients or potential clients do not provide any information, or do not provide sufficient information, and hence an appropriateness assessment is not possible. In this case, the client simply has to be informed of this.
56. Therefore, BaFin considers that the risks identified cannot be adequately addressed through improved supervision and enforcement of the appropriateness assessment requirements.

#### Product governance

57. BaFin has also examined whether the risks identified would be better addressed by improved supervision or enforcement of the requirements on product governance set out in Articles 16(3) and 24(2) of MiFID II and Articles 9 and 10 of Commission Delegated Directive (EU) 2017/593.<sup>16</sup>
58. BaFin considers that improved supervision or enforcement of those requirements does not represent a viable option as it would require several intermediate steps which would have to be monitored in each individual case and, if necessary, enforced.
59. Although excluding retail clients from the positive target market for turbos or including retail clients in the negative target market for turbos could be used to ensure that turbos are not distributed to retail clients, it would lead to German retail clients being denied access to turbos completely as a matter of principle. Therefore, BaFin considers that the rules governing target market identification do not represent an existing regulatory requirement that must be given priority in relation to the restriction on the marketing, distribution and sale of turbos to retail clients domiciled in Germany.

#### Key information documents

60. BaFin has also taken into consideration the relevance of the disclosure requirements set out in Articles 5 to 14 of Regulation (EU) No 1286/2014 (PRIIPs Regulation).<sup>17</sup> However, BaFin considers that those requirements are not suitable to address the significant

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<sup>16</sup> Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits (OJ L 87, 31.3.2017, p. 500).

<sup>17</sup> Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1).

investor protection issues posed by turbos and that such issues would not be sufficiently addressed by improved supervision or enforcement.

61. BaFin notes that improving information to retail clients does not prevent those clients from being exposed to the risk of total loss which is due to the characteristics of turbos. In addition, BaFin notes that despite the existing requirements relating to key information documents, a high percentage of German retail clients suffer losses when trading turbos (75%). BaFin concludes that the complexity of turbos is such that the sole provision of legally required information is insufficient to ensure full retail clients' understanding of turbos.
62. BaFin thus considers that the PRIIPs Regulation does not contain any requirement that would eliminate or sufficiently address the issue. Instead, BaFin considers that its General Administrative Act ensures that retail clients are informed about the high loss ratio and the associated negative expected investment performance for turbos (as a result of the standardised risk warning), and that they therefore receive information going above and beyond that required by the PRIIPs Regulation. Additionally, BaFin's notes that the requirement to ensure basic turbo knowledge through a mandatory and standardised knowledge test conveys the key product features for turbos and checks whether German retail clients have understood them. Consequently, based on this information, German retail clients can then decide for themselves whether they want to accept this risk of loss.

#### Securities prospectus

63. BaFin also took into consideration the requirements of Article 3(1) of the Prospectus Regulation to draw up and publish a prospectus when offering securities to the public (thus applicable to turbos). More specifically, Annex 14 Section 2 of Commission Delegated Regulation (EU) 2019/980<sup>18</sup> which supplements the Prospectus Regulation requires the material risks associated with the security in question to be described in the prospectus.
64. However, BaFin found that such requirements of prospectus law are insufficient to prevent retail clients incurring high losses in connection with trading in turbos. According to BaFin, while existing prospectus requirements call for both the risks and the way in which turbos work to be described in general terms in the base prospectuses, the mere availability of such information has shown to be insufficient to effectively protect retail

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<sup>18</sup> Commission Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004 (OJ L 166, 21.6.2019, p. 26).

clients from making bad investment decisions and to actually understand the specific risks associated with turbos.

65. Therefore, BaFin considers that the Prospectus Regulation does not contain any requirement that would eliminate or sufficiently address the issue.

#### *Improved supervision or enforcement*

66. As mentioned in paragraphs 48 to 65, BaFin does not believe that improved supervision or enforcement of existing requirements can adequately address the significant investor protection issues identified.

#### *Proportionality*

67. BaFin states that the national product intervention measures are justified and proportionate. BaFin considered possible alternative options. However, BaFin deemed these options disproportionate and thus not necessary to adequately address the significant investor protection concerns identified. Rather than a full prohibition or restrictions on leverage, BaFin chose to inform clients about the risks (via the standardised risk warning) and ensure they have knowledge on how turbos work (via the knowledge test on turbos).
68. Therefore, turbos may continue to be marketed, distributed or sold to retail clients provided that the requirements of BaFin's General Administrative Act are fulfilled (including the prohibition of monetary and non-monetary benefits for trading in turbos).
69. According to BaFin, the proposed national product intervention measures address the significant investor protection concerns by creating transparency, restricting monetary and non-monetary incentives for acquisition and introducing a mandatory requirement for a knowledge test specific to turbos without having any detrimental effect on the efficiency of financial markets, or on issuers, offerors, turbo providers or retail clients that is disproportionate to the benefits.

#### *Consultation of competent authorities in other relevant Member States*

70. BaFin informed ESMA that it has consulted NCAs in three other Member States that might be significantly affected by its measures, namely the French Autorité des marchés financiers (AMF), the Austrian Finanzmarktaufsichtsbehörde (FMA) and the AFM.
71. The AFM pointed to the similarities between turbos and CFDs and advised BaFin to consider including leverage limits in its national product intervention measures. The AFM pointed out that their turbo study showed that the higher the leverage is, the higher the losses (for turbos with up to 30 times leverage the average loss is 1.7%, this increases to 8.6% for turbos with > 100 times leverage). The AFM also mentioned that the

experience in the Netherlands showed that no issues emerged with the introduction of leverage limits - and the accompanying bid-only prices. The AFM also emphasised the need to have a level playing field across the Union for Member States taking national product intervention measures on turbos, especially since the trading results and the market participants involved in the Dutch and German markets are similar.

72. The AMF and the FMA took note of BaFin's intended national measure to restrict the marketing, distribution and sale of turbos but did not provide comments or contribute to the consultation.
73. BaFin appreciates the arguments brought forward by the AFM. It does believe, however, that leverage limits would be redundant with the knock-out threshold and would constitute an unreasonable restriction on market makers whilst also creating an uneven level playing field between providers of turbos and providers of other high-leveraged products. Moreover, BaFin clarifies that the correlation between high leverage and high losses was not the subject of the BaFin study since the Article 26 MiFIR reporting data does not provide direct information on leverage. BaFin is also of the view that the measures included in the national product intervention measures are sufficient to address the significant investor protection concerns identified and, therefore, that leverage limits would be unnecessary and disproportionate.

#### *Discriminatory effect on services or activities provided from other Member States*

74. BaFin does not believe that the national measures have a discriminatory effect on services or activities provided from other Member States (including indirect discriminatory effect) because the national measures provide for equal treatment of the marketing, distribution or sale of turbos regardless of the Member State from which those services or activities are carried out.

#### *Timely notification*

75. BaFin notified ESMA and the other NCAs of the national measures not less than one month before the measures are intended to take effect.

#### **ESMA's assessment of the national measures' justification and proportionality**

76. In its assessment of the justification and proportionality of the national measures, ESMA has taken into account (i) the reasons provided by BaFin in its notification of the national measures and in subsequent exchanges, as resulting from this opinion; (ii) BaFin's consultation paper, including the accompanying cost-benefit-analysis and the analysis of data provided on significant losses incurred by German retail clients; (iii) the complexity of turbos; (iv) the lack of transparency in their pricing; and (v) BaFin's assessment of the turbo market in Germany.

77. In ESMA's measures on contracts for differences (CFDs)<sup>19</sup>, ESMA acknowledged that turbos, despite differing in various respects from CFDs, also have similarities with CFDs and that ESMA and the NCAs would monitor whether detrimental consequences for retail clients similar to those observed in relation to CFDs would also arise in respect of products with similar or comparable features to CFDs. For the purposes of the national measures, ESMA has assessed the relevance of BaFin's supervisory experience, in particular the evidence concerning the significant losses incurred by German retail clients when investing in turbos.
78. Based on its analysis, BaFin does not propose prohibiting the marketing, distribution or sale of turbos to retail clients altogether. Instead, BaFin opted for more moderate national product intervention measures that still allow German retail clients to continue trading in turbos whilst, in BaFin's view, sufficiently limiting the investor protection concerns identified.
79. In light of the analysis carried out by BaFin and, considering the reasons explained above, ESMA considers that the measures proposed by BaFin are justified and proportionate.
80. In addition, ESMA notes that BaFin did not fully investigate the causality between leverage and retail client losses.<sup>20</sup> Although leverage in turbos fluctuates, a higher initial leverage typically means the knock-out threshold is closer.
81. In a March 2020 market study<sup>21</sup>, the AFM had shown that, in the Netherlands, turbos were used by Dutch retail investors and were marketed, distributed and sold by firms in the Netherlands similarly to CFDs and generally produced the same results. The study revealed that, as with CFDs, the higher the leverage, the higher the losses. In addition, the study also revealed that the higher the leverage, the higher the loss-ratio and the higher the chances of reaching the knock-out threshold. Consequently, the national product intervention measures taken by the AFM in 2021<sup>22</sup> were calibrated to align with the measured protections offered by the CFD national product intervention measures<sup>23</sup> and included leverage limits.
82. BaFin is of the view that leverage limits which lead to turbos being terminated once a certain price level is reached would be redundant in view of the knock-out threshold, and that, consequently, leverage limits would further increase the complexity of turbos. In addition, BaFin was concerned with the impact that leverage limits would have on bid

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<sup>19</sup> European Securities and Markets Authority Decision (EU) 2018/796 of 22 May 2018 to temporarily restrict contracts for differences in the Union in accordance with Article 40 of Regulation (EU) No 600/2014 of the European Parliament and of the Council (OJ L 136, 1.6.2018, p. 50).

<sup>20</sup> Although they obtained data on leverage from the requests for information they sent in 2024, ESMA notes that there was no specific questions on the link between the initial leverage of turbos and client losses.

<sup>21</sup> [Turbobelegger verliest gemiddeld veel geld, AFM roept turbo-industrie op risico's te verminderen](#)

<sup>22</sup> [turbos-beperking-besluit-en.pdf](#).

<sup>23</sup> <https://www.afm.nl/en/nieuws/2019/apr/binaire-opties-cfds-interventies>.

prices as, once a certain price is reached, firms would not be able to offer ask-prices anymore. According to BaFin, this could heavily distort pricing and artificially increase the spread to the disadvantage of clients. In addition, BaFin was concerned that market makers would have to continuously monitor leverage limits and ask prices would have to be suspended repeatedly if the limit is reached. This would, in BaFin's view, constitute an unreasonable restriction on market makers whilst also creating an uneven level playing field between providers of turbos and providers of other high-leveraged products.

83. ESMA acknowledges that leverage in turbos fluctuates continuously and that leverage limits could translate into bid-only prices. However, ESMA notes that i) following the national product intervention measures taken by the AFM in 2021, no heavy disruption of the turbos market to the disadvantage of Dutch retail investors was reported and ii) German turbo providers already offer bid-only prices on a regular basis.
84. In addition, ESMA notes that, whilst lower leverage increases the entry price of turbos (since clients have to put up more money upfront), it reduces risks, such as the chance that the turbo reaches the knock-out threshold, and it also lowers financing costs. Furthermore, while ESMA recognises that turbos are automatically terminated when reaching the knock-out effect and hence precludes the client to lose more than it invested, in ESMA's view, the knock-out threshold is not a protective measure for investors, as reaching the threshold often results in total loss of the investment.
85. Leverage limits could consequently, in ESMA's view, adequately address the investor protection concerns (mainly the high percentage of loss) identified for German retail clients. Based on the findings of the study conducted by the AFM, similar leverage limits would likely directly positively impact the loss-ratio and frequency of turbos held by investors that reach the knock-out threshold. Whilst not being the most stringent product intervention measures (such as a total prohibition of the marketing, distribution, sale of turbos), leverage limits could be in line with proportionality considerations in view of the serious investor protection concerns identified and the restriction and burden it would subject firms to.
86. ESMA has therefore concerns that the national product intervention measures proposed by BaFin, whilst being justified and proportionate, may not fully address the serious investor protection concerns identified and may have a more limited impact compared to the situation in which leverage limits were to be imposed.
87. Thus, ESMA recommends that BaFin closely monitors the impact of the national product intervention measures it is taking and it assesses whether and to which extent such measures will improve German retail investors' outcome. To do so, sufficient data should be gathered on German retail clients' losses and the impact of leverage on such losses.

ESMA also notes that BaFin's study revealed that both issuers and providers actively promote turbos as described in paragraphs 44 to 47, and that inducements are regularly

paid to intermediaries. While the total amount of inducements involved was not part of the study, the typical range and percentage stated indicate that the total amount could be quite substantial.<sup>24</sup> ESMA recommends BaFin to also closely monitor the future marketing efforts of entities and the role of inducements in how these products are presented to (potential) investors, as well as whether such inducements comply with Article 24(9) of MiFID II. In this monitoring, BaFin could also assess how such practices are in line with the target market identification and whether the distribution strategy is consistent with the identified target market.

88. In addition, the national measures provide that the test of basic knowledge about turbos does not replace the MiFID II appropriateness assessment. However, ESMA notes that the national measures also allow for the test for basic knowledge on turbos to be integrated within the MiFID II appropriateness assessment. This is a risk, as the design of the basic knowledge test is not aligned with the ESMA Guidelines on certain aspects of the MiFID II appropriateness and execution-only requirements.<sup>25</sup> In this respect, ESMA recommends that BaFin monitors that any such integration does not lead to the MiFID II appropriateness assessment departing from the ESMA Guidelines.
89. Finally, ESMA notes that the national measures do not apply to the marketing, distribution or sale of turbos to retail clients outside Germany from providers authorised in Germany. While ESMA is of the general view that retail clients should be effectively protected regardless of their location, ESMA has considered that the national measures aim to address the specific concerns identified by BaFin in respect of the turbo retail market in Germany. Furthermore, ESMA has taken into account that BaFin will continue to closely monitor the market and the activity of turbo providers.
90. Nonetheless, as BaFin's national intervention measures only apply to German retail clients, ESMA recommends that BaFin also monitors that its measures do not have the effect that German providers of turbos intensify their activities towards clients located in other Member States and that retail clients' losses in other jurisdictions increase as a consequence. Where BaFin observes a significant increase of activities in one or more Member States, ESMA recommends BaFin to consider whether additional measures are necessary and inform the relevant NCAs and ESMA accordingly. Additionally, ESMA

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<sup>24</sup> If the stated 0.25% of the order volume would be representative, inducements per transactions could average EUR 7.75 (which is within the mentioned range of EUR 3.50 – 13.40 per transaction), or EUR 487.50 million in total based on € 195 billion in purchase volume during the observation period. This accounts to approximately EUR 900 per retail investor identified during the observation period.

<sup>25</sup> For example, paragraph 23 of the Guidelines states: "Firms should have procedures and mechanisms in place to limit the risk of circumventing the requirements, making sure that the information collected adequately reflects the client's level of knowledge and experience. For example, firms could: consider limiting the number of times clients can answer the questionnaire(s) within a certain period of time, work with different sets of questionnaires when a client requests to retake the questionnaire and/or use a cooling-off period. In contrast, the design as set out in the measures allows for unlimited repetitions, contains only a single set of questions, and firms are required to show the correct answers to wrongly answered questions. Resulting in a situation where in a second attempt all correct answers are already provided to the client and thus the knowledge of the client is not actually tested anymore.

The Guidelines are available [here](#).

recommends that other NCAs observing an increase in their Member States should inform BaFin as well as ESMA.

#### **4. Conclusion**

91. For the above-mentioned reasons, ESMA is of the opinion that the national measures are justified and proportionate.
92. As to whether the taking of measures should be considered by other national competent authorities, ESMA is of the opinion that insufficient evidence has been gathered so as to make such determination at this stage. Therefore, ESMA encourages national competent authorities, especially in the jurisdictions in which these products are more widespread, to continue monitoring these products at national level in order to assess whether similar risks for retail investors as those identified by BaFin and the Dutch AFM could arise.
93. This opinion will be published on ESMA's website in accordance with Article 43(2) of MiFIR.

Done at Paris, 24 November 2025

For the Board of Supervisors  
Verena Ross  
Chair