

MEASURES ON THE MARKETING OF CFDs AND OTHER SPECULATIVE PRODUCTS TO RETAIL INVESTORS

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In Spain as in other European countries has been an increase of marketing to retail investors by certain financial brokers of complex and high-risk instruments, such as contracts for differences (CFDs), Rolling-spot forex contracts (for the purpose of this release, "forex products") and binary options.

The marketing of these products to retail investors has raised concerns at CNMV for some time. In October 2014 a warning was given on the risks and the high ratio of investors obtaining losses when investing in CFDs,¹ and, in July 2016, on the occasion of a release issued by ESMA on CFDs, binary products and other speculative products, CNMV issued a new warning on the risks involved in these products.

CFD's, forex products and binary options and their risks are hard to understand for most retail investors. Research conducted by CNMV and other securities supervisors shows that most retail investors investing in these products lose money. According to data drawn from the CNMV's latest study, from January 1st, 2015 to September 30th, 2016, 82% of investors who entered into CFD transactions made a loss. The total losses of 30,656 investors, including transaction costs, spreads and fees, came to €142 million (the aggregate results were losses of €52 million plus €90 million in fees, spreads and other costs).

Some European Union countries have proposed and in some cases even implemented a range of initiatives to limit the leverage of investments in these products or restrict their marketing by placing constraints on advertising or remote sales via call centres.

Without ruling out similar actions, CNMV has set in motion several measures to enhance the protection of retail investors in Spain when investing in CFDs, forex products or binary options:

- CNMV has required brokers that market CFDs or forex products with a leverage greater than 10 times (10:1) or binary options among retail investors in Spain, and do so outside the scope of investment advice, to take the following actions:
 - To expressly warn investors that CNMV believes that due to their complexity and risk the purchase of these products is not appropriate for retail investors.
 - In addition, investors must be informed about the cost they would support if they decide to close out their position immediately after entering into the transaction and, in the case of CFDs and forex products, they must be warned

¹ This warning was also reproduced in the 2014 third-quarter newsletter and in the 2014 CNMV annual report.

that due to leverage losses may be greater than the amount originally invested to purchase the product.

- Entities must obtain from the investor a written text or voice recording that proves that the customer is aware that the product he/she is about to purchase is especially complex and that CNMV believes it is not appropriate for retail investors.
- Advertising used by companies to promote CFDs, forex products or binary options must always contain a warning on the difficulty of understanding these products and a disclosure of the fact that CNMV believes they are not appropriate for retail investors owing to their complexity and risk.

The companies to whom this demand has been addressed must adapt their procedures and systems so as to be able to give these warnings and obtain written or oral statements of awareness as soon as practicable, and at all events within one month from receipt of the demand.

- CNMV also plans to approach the securities supervisors of other countries to ask them to require that similar warnings be given and actions be taken by entities that provides these products to Spanish retail investors under the freedom to provide services.

CNMV will actively advocate at ESMA the adoption of coordinated measures throughout the European Union to enhance investor protection in this domain.