

TO : Cyprus Investments Firms

FROM : Cyprus Securities and Exchange Commission

DATE : 17 May 2017

CIRCULAR No : C210

SUBJECT : New requirements of the Spanish Securities and Exchange Commission (the "CNMV") regarding the provision of warnings on complex financial instruments to retail clients resided in Spain

The Cyprus Securities and Exchange Commission (the "CySEC") hereby draws the attention of the Cyprus Investment Firms (the "CIFs")¹ to CNMV's new requirements regarding financial contracts for difference (CFDs) and rolling-spot foreign exchange with a leverage level greater than 10:1, or binary options.

In particular, the CNMV requires firms to expressly warn retail investors resided in Spain about the risk and complexity of the abovementioned products. The CNMV considers that these warnings, which include a handwritten statement made by the client (or alternatively a recorded oral or typewritten statement), are needed to ensure that all Spanish investors have the same level of protection and also to ensure a level playing field for all participants in the Spanish market.

For more information on CNMV's requirements, see below as Annex the texts of the warnings and handwritten statements.

CySEC herewith advises CIFs to consult with their legal consultants regarding the legal actions required to ensure compliance with CNMV's requirements and urges CIFs, to whom these measures apply, to adapt their procedures and systems so as to be able to issue these warnings and obtain the handwritten or oral statement as soon as practicable, and at all events within one month from the date of this circular.

Yours sincerely,

Demetra Kalogerou
Chairman of the Cyprus Securities and Exchange Commission

¹ It refers to CIFs that are freely providing investment and ancillary services, and/or are performing investment activities, in accordance with Article 79 of the Investment Services and Activities and Regulated Markets Law of 2007, as in force relating to financial contracts for difference (CFDs) and rolling-spot foreign exchange with a leverage level greater than 10:1, or binary options, to retail clients in the territory of Spain.



Sebastián Albella Amigo
Presidente

Edison, 4
28006 Madrid
España

T +34 915 852 272
www.cnmv.es

Annex 1- Warnings, handwritten sentence and information

Required warnings when selling CFD, Rolling-spot foreign exchange (hereinafter, forex) or binary options:

GENERAL WARNING:

"You are about to purchase a product that is complex and difficult to understand: (the product must be identified). CNMV has determined that, due to its complexity and the risk involved, the purchase of these products by retail investors is not appropriate/suitable. Nevertheless, ZZZ (name of the entity) has assessed your knowledge and experience and has determined that it is convenient for you."

In the case of CFD and forex, the above-mentioned warning will also contain the following second paragraph:

"The product you are about to purchase (the product must be identified) is a leveraged product. Please be aware that the losses incurred may be greater than the amount initially invested."

For all three types of product, the following warning will also be included:

"Please be aware that if you decide to close your position immediately after purchasing it, you will have to pay XXX euros."

In addition, entities require retail investors' signatures on the text where the warning appears, along with a handwritten statement from them indicating that:

"This product is complex and CNMV has determined that it is not convenient for me."

This warning and the handwritten sentence shall form part of the contractual documentation and must be made prior to the first two trades made by the retail investor for each of the following products: CFD, forex and binary options.

In addition to the warning detailed in this annex, if the entity also has to warn that the service or product is not suitable for the retail investor, both warnings shall be issued jointly. In this case, the warning included in the first paragraph would be modified by deleting the last sentence, and the handwritten sentence would read as follows:

"This product is complex and has been determined as unsuitable for me."



Sebastián Albella Amigo
Presidente

Edison, 4
28006 Madrid
España

T +34 915 852 272
www.cnmv.es

If, in addition to the warning detailed in this annex, the Investment Firm must also advise investors that, due to a lack of information for assessing whether or not the investment service or product is appropriate/suitable for them, the warnings will be issued jointly. In this case, the warning included in the first paragraph would be modified by deleting the last sentence and the handwritten sentence would read as follows:

"This is a complex product and due to the lack of information provided, it could not be determined as being convenient for me."

In the case of electronic service provisioning, provisions must be made to ensure that the retail investors can type the handwritten sentence prior to the trade and that the entities must be able to prove that it has in fact been performed. In the case of service provisioning by phone, the entity must record the call and keep the handwritten sentence of the retail investors in oral form.

On the other hand, in the advertising mechanisms used by your entity on CFD, forex or binary options, the following warning must always be provided:

"Difficult product to understand, CNMV has determined that it is not suitable for retail investors due to its complexity and the high risk involved."

Entities must adapt their procedures and systems to be in a position to issue the warnings and obtain the handwritten or verbal statement within one month from the date of receipt of this request.