

26 July 2019

**KNF Statement
on the marketing, distribution or sale of contracts for differences (CFD)
to retail clients**

31 July 2019 marks the end of the period of application of European Securities and Markets Authority Decision (EU) 2019/679 of 17 April 2019 renewing the temporary restriction on the marketing, distribution or sale of contracts for differences to retail clients (OJ L 114 of 30 April 2019, p. 22) which was effective in the European Union.

The KNF (hereinafter: ‘Authority’) agrees with the arguments raised by ESMA regarding the excessive risk that inexperienced retail clients might incur losses on investments in CFDs. Having that in mind, and considering the need for an ESMA opinion on the rules for investments in CFDs in Poland to be followed after the expiration of the ESMA measure for the entire EU, the Authority hereby informs that the decision on the determination of terms of offering CFDs to retail clients should be made at the next meeting of the KNF Board.

The Authority would like to stress that under the EU legislation and under the Polish laws governing the offering of CFDs, providers of such financial instruments are required to act in the best interest of clients. Therefore, the Authority expects that starting from 1 August 2019—by the effective date of the KNF Board’s decision—CFD providers operating and offering their services in Poland will be taking into account the rules defined in ESMA Decision 2019/679, subject to the terms of the measure adopted by the authority competent for such providers. The same rules should be applied to CFD providers established in Poland that provide their services on a cross-border basis in other EU Member States (through a branch or under the freedom to provide services), unless a decision on investing in CFDs is in force in the relevant Member State.

The practice of offering CFDs to retail clients in that period in accordance with the rules laid down in the above-mentioned ESMA Decision or the rules set by an authority competent for the relevant CFD provider will be treated by the KNF as a reliable professional practice consistent with the principles of fair trading and as acting in the best interest of the clients referred to in Article 83c of the Act of 29 July 2005 on trading in financial instruments and Article 24(1) and Article 25 of 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.