

Finansinspektionen's Regulatory Code

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Finansinspektionen's regulations regarding product intervention with regard to binary options;

FFFS 2019:8

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decided on 18 June 2019.

Finansinspektionen prescribes the following pursuant to Chapter 6, section 1, point 62 of the Securities Market Ordinance (2007:572).

Scope of the regulations

Section 1 These regulations apply to undertakings providing investment services in accordance with the Securities Market Act (2007:528).

Definitions

Section 2 In these regulations, the terms and expressions shall have the same meaning as in the Securities Market Act (2007:528) and the Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May on markets in financial instruments and amending Regulation (EU) No 648/2012.

Prohibition of on marketing, distribution and sale

Section 3 An undertaking may not market, distribute or sell binary options to retail clients.

A binary option is a derivative that, irrespective of whether it is traded on a trading venue,

1. 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,
2. only provides for payment at its close-out or expiry, and the payment is limited to
 - a predetermined fixed amount or zero if the underlying of the derivative meets one or more predetermined conditions; and
 - a predetermined fixed amount or zero if the underlying of the derivative does not meet one or more predetermined conditions.

Exemption from the prohibition

Section 4 The prohibition set out in section 3 does not apply when an undertaking markets, distributes or sells binary options that meet the following requirements:

- The lower of the two predetermined fixed amounts is at least equal to the total payment made by a retail client for the binary option, including any commission, transaction fees and other related costs.
- The term from issuance to maturity is at least 90 calendar days.
- A prospectus for the binary option has been drawn up and approved in accordance with Directive 2010/71/EC of the European Parliament and of the Council of 4 November 2010 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC and it is available to the public.
- The binary option does not expose the provider to market risk throughout the term of the binary option,
- The undertaking that markets, distributes or sells the binary option or one of its group units does not make a profit or loss from the binary, option other than commission, transaction fees or other related charges previously disclosed in conjunction with the purchase of the binary option.

These regulations shall enter into force on 2 July 2019.

ERIK THEDÉEN

Claudia Bäckström