

In case of discrepancies between the French and the English text, the French text shall prevail.

CSSF Regulation No 19-05 of 26 June 2019 prohibiting the marketing, distribution or sale of binary options to retail clients

Having regard to Article 108a of the Constitution;

Having regard to the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"), and in particular Article 9(2) thereof;

Having regard to the Law of 5 April 1993 on the financial sector (LFS), and in particular point (13) of Article 53(1) thereof, pursuant to which the CSSF, in its capacity as designated authority, may suspend the marketing or sale of financial instruments;

Having regard to 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, and Article 42 thereof, pursuant to which the CSSF, in its capacity as competent authority, may suspend the marketing, distribution or sale of financial instruments;

Having regard to the European Securities and Markets Authority Decision (EU) 2018/795 of 22 May 2018 to temporarily prohibit the marketing, distribution or sale of binary options to retail clients in the Union in accordance with Article 40 of Regulation (EU) No 600/2014 of the European Parliament and of the Council;

Having regard to the opinion of the Consultative Committee for Prudential Regulation;

The Executive Board of the Commission de Surveillance du Secteur Financier,

Decides:

Article 1

Prohibition of marketing, distribution or sale of binary options to retail clients

1. The marketing, distribution or sale to retail clients of binary options is prohibited.
2. For the purposes of paragraph 1, irrespective of whether it is traded on a trading venue, a binary option is a derivative that meets the following conditions:
 - (a) it 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;
 - (b) it only provides for payment at its close-out or expiry;
 - (c) its payment is limited to:
 - (i) a predetermined fixed amount or zero if the underlying of the derivative meets one or more predetermined conditions; and
 - (ii) a predetermined fixed amount or zero if the underlying of the derivative does not meet one or more predetermined conditions.

Article 2

Prohibition of participating in circumvention activities

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the requirements in Article 1, including by acting as a substitute for the binary option provider.

Article 3

Entry into force

This regulation shall enter into force on 1 July 2019.

Article 4

Publication

This regulation shall be published in the Journal officiel du Grand-Duché de Luxembourg and on the website of the Commission de Surveillance du Secteur Financier.

Luxembourg, 26 June 2019

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