cats
Börse Stuttgart

Statement on AFM's consultation on the restriction on sale of Turbos to retail investors – Boerse Stuttgart cats GmbH rejects the proposed product interventions as disproportionate and unjustified

Börse Stuttgart cats GmbH is operating as an investment firm in Germany and provides the network infrastructure for bilateral trading between issuer/market maker and retail banks in securitized derivatives, equities and ETFs all over Europe. We welcome the opportunity to use the consultation to put forward arguments that we believe do not justify product intervention in Turbos:

Investors' motives matter ● A key argument that AFM raises against turbos is the average negative return of investors trading turbos. However, when analyzing negative average returns, one should also take into account the investors' motives behind the use of Turbos. There is a category of clients who take out a Turbo to hedge their portfolio. For hedgers, the negative returns are offset or overcompensated by positive price developments of the underlying assets and are therefore not an indicator of a negative outcome for investors trading with leveraged products. The Turbo loss is in that case simply a price paid to hedge a loss in the entire portfolio – a fact that has been ignored by AFM's studies on Turbos.

Investors' level of sophistication matters as well ● Another argument made by AFM is that private investors cannot properly asses the risk and complexity of Turbos. However, a recent study[1] for the German market indicates that leveraged products like Turbos are primarily traded by experienced investors who know about the risks taken. Those investors, according to the referred study, should be familiar with the features and characteristics of the products. They have trading experience and use the products consciously. Those investors most likely also know from trading with other instruments how a stop loss works – different to what AFM states in chapter 3.1.1, number 18) by stating stop loss limits as an example for the complexity of Turbos. Even the further examples provided by AFM under chapter 3.1.1, numbers 28)-30) are extreme examples where it is questionable to use them to justify complexity.

Turbos are different from Contracts for Difference (CFD) ● In its consultation document, the AFM refers frequently to Turbos as being comparable to CFDs. This is somewhat irritating because ESMA outlined in a 2018 Q&A[2] in what respect turbos are different from CFDs. One of the most important issues is that firms offering Turbos do not benefit from client losses and so are not incentivized to act against their clients' best interest. The opposite is true for CFDs, where there is an inherent conflict of interest because many CFD providers do not hedge their exposure and this offload the full market risk onto the customer. As being both market maker and broker in one, CFD brokers benefit directly form the client's losses – which is fundamentally different from Turbo certificates.

Extraterritorial Impacts ● AFM's measures would be applicable to any investment firm acting with a Dutch retail investor and to any investment firm registered in the Netherlands which is acting with retail investors anywhere in Europe. We believe that this scope would undermine the principle of an EU Single Market and level playing field and act against the Capital Markets Union (CMU) goals. Such provisions would introduce complexity and could possibly lead to a distorted EU market for Turbos which could have an adverse impact on EU retail investors' access to those products.

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[1] Meyer, Steffen; Bövers, Kim; Johanning, Lutz. 2019. Leveraged Structured Financial Products: Trading Motives and Performance. (Link).

[2] ESMA. 2018. Questions and Answers on ESMA's temporary product intervention measures on the marketing, distribution or sale of CFDs and Binary options to retail clients. (Link).

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