Feedback statement

Decision on restrictions on turbos

Publication date: 30 June 2021

The Dutch Authority for the Financial Markets

The AFM is committed to promoting fair and transparent financial markets.

As an independent market conduct authority, we contribute to a sustainable financial system and prosperity in the Netherlands.

Table of Contents

Introduction

On 9 December 2020, the Dutch Authority for the Financial Markets (**AFM**) held consultations on its intention to restrict the marketing, distribution or sale of turbos (the **decision**).[1] This consultation period lasted until 24 January 2021. The restrictions on turbos are prompted by the AFM's conclusion on reasonable grounds that turbos give rise to significant cause for concern regarding investor protection.

The AFM received 33 responses to the consultation. Of these, 18 responses were submitted by retail investors in a personal capacity. Another 15 responses were submitted by financial firms or interest groups. The AFM received responses from all parts of the distribution chain for turbos: issuers, proprietary traders, trading platforms, brokers/distributors and retail investors.

The AFM has assessed all the responses carefully and divided them into eight overarching categories. In this feedback statement, the AFM broadly considers the eight overarching categories to the extent that they are relevant to the decision.

Next step

The restrictions on turbos will be published in the Netherlands Government Gazette and on the AFM's website[2] and will enter into force on 1 October 2021.

[1] 'AFM consultation on restriction on sale of turbos to retail investors', 9 December 2020, https://www.afm.nl/en/nieuws/2020/december/consultatie-beperking-turbos.
[2] https://www.afm.nl/nl-nl/professionals/onderwerpen/productinterventie.

1. General

Various respondents voiced concerns against the restrictions on turbos in general terms, stating, for example, that the cross-border effect of the restrictions undermine the single-market principle and impede a capital markets union. There is concern that investors will purchase other products that carry a higher risk than turbos. It was noted that turbos fulfil a need amongst investors. Other, generally formulated concerns were also expressed. Several respondents proposed that execution-only trading in turbos be prohibited or that restrictions be placed on the speed with which retail investors can trade. Further proposals are that the provision of information and provision of services be standardised, or that the range of products be simplified. Finally, several respondents highlighted the offer by the turbo industry to undertake self-regulation and asked why the AFM seemed unwilling to accept this.

In the consultation document, the AFM explained why it has concluded that there is significant cause for concern regarding investor protection, that the existing requirements are not sufficient to remove the concern about investor protection and that the decision is proportionate.[3] The AFM has taken various criteria and factors into consideration in determining the significant causes for concern regarding investor protection. They include, amongst other things, the degree of complexity, transparency and the specific features or components of turbos, the size of potential detrimental consequences, the existence and degree of disparity between the expected return or profit for investors, the risk of loss in relation to turbos, the type of clients involved and the degree of innovation of turbos as well as the selling practices associated with turbos.

As set out in the consultation document, the AFM deems it appropriate in selecting the restrictions for turbos to seek as much alignment as possible with the restrictions imposed in the CFD product intervention measure. The reason for this is the high degree of similarity between turbos and CFDs, while the AFM has also taken into consideration the differences between the two products. The AFM addresses the similarity between turbos and CFDs in further detail in Chapter 7.

The concerns expressed in general terms that were put forward in the responses to the consultation give no grounds for amending the decision. The objections that were raised do not or do not sufficiently remove the causes for concern regarding investor protection. The AFM points out that while the marketing, distribution or sale of turbos is being restricted, no prohibition is being imposed. Turbos will remain accessible to retail investors after the decision enters into force.

Regarding the solutions proposed in the responses to the consultation, it is noticeable how varied the perspectives are amongst the market parties concerned. This was also the case when the AFM previously called on the turbo industry to put forward its own solutions. While this call prompted various proposals, it did not result in a solution that enjoys broad support amongst market parties

---

[3] In accordance with Article 42 of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (**MiFIR**).

and hence leads to improved investor protection. Similarly, the AFM was unable to identify a broadly supported solution in the responses to the consultation.

The AFM also notes that the proposed solutions are already known and were taken into account in deciding on the imposition of this measure. Examples of proposals include improving the provision of information and simplifying the product range. Improving the provision of information does not have an influence on the specific characteristics of turbos and the associated complexity and risks. The proposed simplifications of the product range do not sufficiently address the risks of turbos, such as the risk resulting from leverage, for instance. The aforementioned proposals may improve the protection of investors, but do not remove the significant causes for concern regarding investor protection.

2. The 'from the Netherlands' scope

It was noted that the restrictions will also apply to the offering of turbos from the Netherlands[4] *in another Member State.*

*Various respondents commented that they think it is unjustified that the AFM also intends to adopt the 'from the Netherlands' scope. In their opinion, this scope means effectively that the AFM is partly regulating market competition in other Member States. They also claimed that this scope prejudices the competitive position of Dutch providers of turbos on foreign markets and infringes the freedom to provide services within the European Union. Furthermore, they stated, the AFM has failed to demonstrate sufficiently that turbos give rise to significant cause for concern in other Member States. Finally, respondents pointed out that other competent authorities, including the Autorité des marchés financiers (**AMF**) in France and the Bundesanstalt für Finanzdienstleistungsaufsicht (**BaFin**) in Germany, see no reason to impose restrictions on turbos in their Member State.*

Product intervention powers are powers established pursuant to an EU Regulation and are intended, amongst other things, to protect investors. The aim is to provide an equal level of protection for all European investors. For this reason, the AFM held consultations on the decision to restrict the offering of turbos *in* as well as *from* the Netherlands.

The European Securities and Markets Authority (**ESMA**) performs a facilitation and coordination role in relation to the AFM's decision. In particular, ESMA ensures that the decision of the AFM is justified and proportionate and that, where appropriate, a consistent approach is taken by competent authorities.[5] If ESMA considers that the taking of a measure by other competent authorities is necessary to address the risk, ESMA will state this in its opinion.[6]

---

[4] In the consultation document, 'offering' is defined as 'marketing, distributing or selling'. This definition differs from that of 'aanbieden' (offering) as defined in Article 1:1 of the Financial Supervision Act (*Wet op het financieel toezicht*).

[5] See Article 43(1) of the MiFIR.

[6] See Article 43(2) of the MiFIR.

On 25 January 2021, the AFM informed ESMA and all the other competent authorities of the details of its intention to restrict turbos.[7] During this information procedure, no other competent authority stated that it was considering any measure in relation to turbos.[8] Some competent authorities stated that, at this moment, they see insufficient concrete risks in their Member State or have insufficient evidence to justify taking a measure. The latter was also confirmed by ESMA. These circumstances are reason for the AFM in this specific case to discard the 'from the Netherlands' scope. The restrictions on turbos will therefore not apply to turbos offered from the Netherlands in other Member States. On 3 May 2021, the AFM informed ESMA and all the other competent authorities of this change in scope. ESMA published its opinion on its website on 8 June 2021.[9] In its opinion, ESMA states that it concludes that the decision of the AFM, including the option not to adopt the 'from the Netherlands' scope, is justified and proportionate. ESMA's opinion encourages the other competent authorities to monitor turbos in their respective markets to assess whether similar risks for retail investors as those identified by the AFM could arise there. The AFM will continue to monitor the market and other circumstances and will reconsider the scope if necessary.

3. Responsibility for compliance by other parties in the distribution chain

The decision imposes three restrictions on the offering of turbos to retail investors: a leverage cap, a prohibition on incentives offered to trade in turbos (trading bonuses) and a mandatory risk warning. The broad definition of 'offering' means that all the providers of turbos can be held jointly responsible for compliance with the restrictions on turbos.

Various respondents noted that a provider may have no or only limited influence on compliance with the restrictions on turbos by other providers in the distribution chain. A trading platform, for example, has no knowledge of whether a retail investor is resident in the Netherlands or another Member State, nor can a distributor prevent a proprietary trader from quoting an offer price for a turbo that does not comply with the leverage cap. Various respondents have asked for clarity, so that they are not held accountable for infringements committed by another party.

The distribution chain for turbos consists of various parties. The AFM understands that this may give rise to questions as to which party in the distribution chain is responsible for compliance with the restrictions on turbos. Compliance will be assessed in respect of the party to whose actions (or omissions) the restrictions relate. This allows the AFM to hold the counterparty trading with the retail investor who quotes the offer price accountable for compliance with the leverage cap.

---

[7] See Article 42(3) of the MiFIR.

[8] The UK Financial Conduct Authority (which is no longer a competent authority within the meaning of the MiFIR) restricted the sale of 'CFD-like' products with effect from 1 September 2019; see https://www.fca.org.uk/news/press-releases/fca-confirms-permanent-restrictions-sale-cfds-and-cfd-options-retail-consumers.

[9] 'ESMA issues an opinion on Product Intervention Measures on Turbos', 8 June 2021, https://www.esma.europa.eu/press-news/esma-news/esma-issues-opinion-product-intervention-measures-turbos.

This does not, however, alter the fact that the issuer that makes arrangements with such a counterparty on offering turbos for the purpose of trading also bears some responsibility for compliance with the leverage cap. The distributor is also responsible for compliance with the leverage cap. If a distributor concludes, for example, that turbos issued by a specific issuer fail to comply with the leverage cap on a structural basis, it will be obliged to implement appropriate measures. An appropriate measure may be ceasing to receive and transmit orders for the turbos concerned or ceasing to highlight the turbos in question or promote them in advertisements.

A provider that has a 'passive' role in the distribution chain, such as a trading platform, will be not be held accountable for non-compliance by other providers in the distribution chain. Nonetheless, all providers in the chain are subject to the requirement to provide information referred to in Article 3(2) of the decision. The parties in the chain each have their role and consequently bear joint responsibility for ensuring that the turbos offered by them comply with the restrictions of the decision.

In the situation that certain prescribed information can be provided by various providers in the distribution chain, it makes sense for the providers concerned to make arrangements amongst themselves regarding the manner in which this information is provided. This does not alter the fact that providers have independent responsibility for ensuring that they comply with the requirements in the appropriate fashion.

4. The leverage cap

In the consultation document, the AFM applies the same leverage caps as already apply to CFDs. The AFM explains this choice in paragraph 3.3.1 of the consultation document. The leverage level of turbos is determined on the basis of the last known price of the underlying value. Providers need to monitor the price of the underlying value continuously or in real time in order to comply with the leverage cap.

Various respondents commented that they consider that the leverage caps have not been sufficiently substantiated by the AFM. In addition, they proposed that the 'stop-loss risk' which some turbo providers publish be used for determining the leverage caps. A further proposal was to qualify the AEX as a 'major index' due to the similarities with major indices and the popularity of the AEX in the Netherlands. This would result in a maximum leverage of 20 applying to turbos, with the AEX as underlying value.

Various respondents commented that the leverage cap was not practicable due to technical or non-technical limitations. They also commented that it could be confusing for retail investors if offer prices were alternately issued and not issued intraday. The leverage cap may lead to complaints and claims for compensation from retail investors. Respondents also stated that the pricing of turbos would become less favourable for Dutch retail investors, since the leverage cap means that they will lose access to the market outside the Netherlands where the caps do not *apply, thereby limiting the number of prospective counterparties with whom they are able to trade.*

Various alternatives for the leverage cap were put forward. One alternative given was to determine the leverage on the basis of the closing price of the previous trading day, for example, while another was to set the leverage cap at 50.

Various methods can be used to determine the leverage caps for turbos. Each method may have its own advantages and disadvantages. The AFM has elected to apply the same leverage caps to turbos as already apply to CFDs. This is consistent from the retail investor's perspective, since a retail investor can achieve the same maximum exposure to the underlying value with an initial investment with turbos as with CFDs. In the AFM's view, any advantages of the alternative leverages put forward fail to outweigh the advantages of a consistent application of leverage caps for turbos and CFDs from an investor protection perspective. Furthermore, the AFM is of the opinion that a leverage cap of 50 provides insufficient protection.

While the AFM is aware that systems, processes and arrangements may need to be adjusted for this measure, it also sees no reason in the concerns expressed regarding the practicability of the leverage cap to amend the decision. Having regard to the responses in the consultation, it is relevant first of all to note that the leverage cap does not apply to the offer price that is issued for or on behalf of the retail investor. Furthermore, a participant of a trading platform is not, in principle, obliged to issue an offer price that would render the implementation of the leverage cap impossible. In the case of turbos, this is confirmed, for example, by the fact that issuers state in the information they provide, such as the prospectus and the brochure, that there may be situations in which no offer price is issued for the turbo.

Everyone who ventures onto a trading platform should take into account that the supply of and demand for turbos may be subject to constant change. Against this background, a limitation on the leverage of the turbos when issuing an offer price does not require any significant additional effort from a professional counterparty trading with a retail investor. That the leverage cap may result in the offer price of turbos close to the leverage cap occasionally being alternately issued and not issued is foreseeable in the light of the objective of the leverage cap. The claim that technical limitations exist that prevent or hinder the implementation of the leverage cap has not been sufficiently specified and/or substantiated. In this regard, the AFM points out that some turbo providers took their own steps to implement a measure to limit the leverage in 2016.[10] In addition, even in the situation that no leverage cap applies, it is quite common for no offer price to be issued for certain turbos, for example due to the triggering of the stop-loss mechanism.

It is the turbo provider's responsibility to inform a retail investor properly about the characteristics of turbos, including the leverage cap. Furthermore, the argument that the decision

[10] See https://www.afm.nl/nl-nl/nieuws/2016/jan/aanvullende-maatregel-hefboomproducten.

will have an unfavourable impact on the pricing of turbos, since there are fewer retail investors as prospective counterparties, has not been sufficiently specified and/or substantiated. In this context, the AFM notes that in practice retail investors mainly trade with liquidity providers and less so with other investors, retail and otherwise. Finally, the AFM is taking the time needed to implement the leverage cap into account by allowing three months to pass after publication before the decision enters into effect. This gives market parties time to make any adjustments necessary to ensure full compliance with the measure.

5. Risk warning

The risk warning requires turbo providers to include with their information a standardised warning with a firm-specific or standard percentage of retail investors that lose money with the provider when trading in turbos. Various respondents commented that the existing requirements under MiFID II and PRIIPs[11], among others, ensure that retail investors are provided with sufficient information. They also pointed out that the risk warning, in addition to all the other information requirements, may lead to warning fatigue, thereby reducing its effectiveness. Additionally, suggestions were put forward to adjust the shape and content of the risk warning with the aim of enhancing its effectiveness. One respondent considered it disproportionate that the loss figures should have to be recalculated every three months. Finally, one respondent asked whether the risk warnings for turbos and CFDs could be combined as and where appropriate.

In paragraph 3.2.1 of the decision, the AFM sets out why it considers the existing requirements with respect to the provision of information, including the obligation to publish a prospectus and the requirement to provide the key information document, inadequate to remove the concern about investor protection in respect of turbos. With the risk warning, the AFM aims to counter the tendency of providers to emphasise the potential profits and minimise the chance of losses. Furthermore, the AFM expects the risk warning to support retail investors in making an informed decision about whether they wish to proceed with a high-risk product that is more likely to result in a loss than a gain.

6. Prohibition of trading bonuses

The prohibition of bonuses bans a provider from offering monetary and non-monetary benefits to incentivise a retail investor to trade, or trade more, in turbos. Waiving transaction fees for turbos, while transaction fees do apply to other financial products, can be qualified as a prohibited benefit in this connection. In such cases, the costs for providing the services could possibly be recovered in other ways, for instance by selling the order flows for turbos.

[11] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs).

A respondent commented that it interpreted the ban on bonuses to mean that discounts on or the waiving of all transaction fees for turbos were prohibited. It argued that it was neither practicable nor reasonable to charge the same transaction fees for all products.

The prohibition of bonuses aims to counter perverse inducements to retail investors to incentivise trading in turbos. The prohibition applies to monetary as well as non-monetary benefits. The AFM notes in this regard that general discount promotions that do not relate specifically to turbos are not covered by the prohibition of this decision, nor does the ban on bonuses result in any general obligation to charge the same transaction fees for all products. The provider is free to determine the level of its transaction fees, provided that there is no monetary or non-monetary benefit to incentivise a retail investor to trade, or trade more, in turbos.

7. Similarity between turbos and CFDs

The similarity between turbos and CFDs is reason for the AFM in selecting the restrictions for turbos to seek alignment with the restrictions that already apply to CFDs. This is consistent from a retail investor perspective and contributes to the comprehensibility of both measures. Various respondents commented that, in addition to similarities, there are also differences between turbos and CFDs. Unlike for CFDs, the residual debt risk for turbos is excluded, an investor cannot alter the leverage of a turbo by adding margin, turbos are securities and therefore subject to the obligation to publish a prospectus, turbos are typically traded on regulated trading platforms and the distribution chain consists of various market parties that each have their own role. With respect to the trade in turbos, several respondents commented that the fact that a retail investor trades with a single counterparty leads to the creation of a counterparty risk and concentration risk, and that the absence of competition results in less favourable pricing for retail investors. In addition, some respondents commented that there have been few complaints regarding turbos. Certain respondents also commented that ESMA, in imposing the temporary restrictions on CFDs, has explicitly determined that the restrictions do not apply to turbos in the light of the differences.

The AFM recognises the comment made by various respondents that while turbos and CFDs display similarities, they also differ from one another. The AFM has taken the similarities as well as the differences into account in formulating the decision. The AFM explains this below.

Turbos and CFDs have in common that they enable the retail investor to invest indirectly, long or short, in an underlying value. The underlying value is largely financed by the provider, resulting in the creation of leverage. The AFM considers the leverage to be the principal feature of turbos as well as CFDs. In addition, providers of turbos and providers of CFDs alike must comply with the MiFID II[12] requirements, which protect investors.

[12] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments.

When imposing the restrictions on CFDs[13] in 2019, the AFM announced that, due to the similarities with CFDs, it would closely monitor whether similar detrimental consequences occurred in connection with the offering of turbos. Meanwhile, a study conducted by the AFM has shown that 68% of retail investors lose money on trading in turbos and that the average return is -/- EUR 2,680. In the case of CFDs, 76% of retail investors lose money and the average return is -/- EUR 1,201.[14] The loss figures for turbos are broadly comparable with those for CFDs and in that sense contribute to a similar extent to the concern about investor protection.

The AFM is aware that there are also differences between turbos and CFDs. The AFM has made sure to take these differences into account in the decision. The AFM addresses the differences in the decision, including, for example, with respect to the obligation to publish a prospectus, the marketability of trading platforms and the distribution chain.

In the light of the differences, the restrictions on turbos are not entirely the same as the restrictions on CFDs. The AFM has taken account of the absence of a residual debt risk with turbos in the decision, for example by not imposing the restriction of the prohibition of a residual debt on turbos. The AFM has also waived the restriction of the margin close-out protection, which would lead to a prohibition of 'Barrier Equals Strike' turbos. As also explained in the decision, the differences referred to therefore lead to a measure that is not identical in all respects to the measure applying to CFDs. Nonetheless, the differences with CFDs do not alter the fact that turbos also give rise to significant cause for concern about investor protection, as explained in paragraphs 3.1–3.1.4. In the AFM's view, the alignment that is sought, where relevant, with the restrictions imposed on CFDs promotes consistency from an investor protection perspective and hence comprehensibility for retail investors. The importance of consistency is reinforced by the fact that certain market parties offer both turbos and CFDs.

Finally, the AFM notes, in the light of responses to the consultation, that it has informed ESMA of its intention to restrict turbos. ESMA concludes in its opinion that the restrictions proposed by the AFM on turbos are *justified* and *proportionate*. This means that ESMA also considers the AFM's concerns regarding turbos to be well-founded.

8. Study by the AFM

The AFM bases its concerns about investor protection partly on the study it conducted into the Dutch turbo market. Various respondents commented that they do not agree with the study design and plan chosen by the AFM. They consider the observation period of 13 months to be too short, and hence not representative. They also commented that the outcomes of the study conducted by the AFM were disproportionately influenced by a small number of frequently trading

---

[13] *AFM verbiedt binaire opties en beperkt verkoop CFD's*, 18 April 2019, https://www.afm.nl/nl-nl/nieuws/2019/apr/binaire-opties-cfds-interventies.
[14] See paragraph 3.1.3 of Restrictions on CFDs, https://www.afm.nl/nl-nl/nieuws/2019/apr/binaire-opties-cfds-interventies.

retail investors – so-called 'outliers'. In addition, they claimed that the AFM wrongly chose not to analyse the outcomes of transactions of which only the time of purchase or time of sale is within the 13-month observation period. These transactions also include turbos with a very long holding period, resulting on average in a positive return.

A further point raised concerns about the AFM's choice not to consider other possible instruments in an investor's portfolio. Some respondents commented that retail investors use turbos to hedge the risk of loss in the portfolio. It was claimed that the losses sustained with turbos are offset by profits with other positions. They referred to a study of leveraged financial products in Germany published in 2019[15], which supposedly confirms that investors have various motives for investing in structured products, including that of hedging the risk of loss in the portfolio.

Reference is also made to another German study, which shows that investors in structured products are less risk-averse and have more knowledge and experience than the average investor. In addition, an internal study carried out by a distributor supposedly shows that the average return in 2020 for turbo investors was EUR 707 and that 71% of investors achieved a positive return.

Finally, some respondents commented that the AFM wrongly does not take into consideration that 54% of the transactions result in a positive return.

The AFM discussed the study of transaction data of turbos on several occasions with market parties. It took all the factors and circumstances relevant to the decision into consideration with regard to the decision to impose restrictions on turbos. Furthermore, the AFM notes that the mere fact that a factor or circumstance is not explicitly mentioned in the measure does not mean that it did not take it into consideration in its decision-making. This applies, for instance, to the finding from the AFM study that 54% of the turbo transactions result in a positive return. While this statistic may appear positive for turbos, it does not change the negative outcome that 68% of the investors lose money and that the average return is -/- EUR 2,680. On the contrary, highlighting that 54% of the turbo transactions result in a positive return is more likely to increase the risk of investors wrongly getting the impression that investing in turbos yields a profit on average. In this regard, the AFM refers to the mandatory risk warning that is designed to offset the tendency of turbo providers to highlight the potential profits over losses.

The AFM notes further that prior to publishing its study, it discussed the results with the four distributors that took part in the study to give them an opportunity to respond. The comments by the distributors enabled the AFM to verify that the report did not contain any factual errors or inaccuracies.

---

[15] 'LEVERAGED STRUCTURED FINANCIAL PRODUCTS: TRADING MOTIVES AND PERFORMANCE', December 2019, https://www.derivateverband.de/MediaLibrary/Document/Studies/20%2003%2006%20Leveraged%20Structured%20Financial%20Products%20-%20Trading%20Motives%20and%20Performance.pdf.

As part of the study, the AFM analysed the outcomes of 3.9 million orders over a period of 13 months. The study shows that 56% of the turbo positions are closed within 24 hours. Only 5% of the turbos have a holding period longer than 720 hours.[16] The AFM notes in this regard that the observation period of 13 months is 13 times as long as 720 hours (= 30 days). The relatively short holding periods for turbos mean that medium- or long-term price trends have a more limited impact on the return of turbos. Turbos can also be used by investors to take both short and long positions in the underlying value. As a result, the return of turbos is, in principle, not dependent on the price trend direction. Based on the above, the AFM is of the opinion that the period of the study is sufficiently long and representative.

The AFM also sees no reason to disregard the group of frequently trading investors for the purposes of the study. After all, there are deviations from the average, both upward and downward, for all non-trivial study populations. In this study, the so-called 'outliers' are real retail investors that have sustained real losses. The AFM considers it irresponsible to disregard this group since that would create a misleading picture. The AFM also sees no reason to review the decision only to analyse turbos of which the time of purchase as well as the time of sale lie within the observation period for the purposes of the study.[17] The category of turbos purchased or sold outside the observation period includes turbos with a long holding period which have a better than average return as well as turbos with a short holding period which have a below average return. It is therefore unlikely that including these turbos would significantly change the outcome.

Although the AFM understands that there may be investors that use turbos for the purpose of hedging, the AFM sees no grounds in the argument that turbos are used for hedging to adjust or review the measures. In this regard, the AFM states first and foremost that the restrictions on turbos do not prevent turbos from being used as a hedging instrument. While the use of a leverage exceeding the permitted leverage caps is not necessary for the purpose of hedging, it is likely to entail risks for a retail investor. The AFM also notes that turbos carry a stop-loss risk and credit risk. Turbos are terminated when the stop-loss mechanism is triggered. From that moment, a turbo is no longer capable of hedging losses in a portfolio and the hedging function ceases, irrespective of the position of the underlying portfolio. The investor also introduces a credit risk into its portfolio when it purchases a turbo. This credit risk appears to be at odds with the objective of hedging risks. Although turbos can still be used as a hedging instrument within the permitted leverage caps, the AFM notes that it is not evident from the information provided by issuers, such as brochures, that issuers chiefly promote their turbos as a hedging instrument. Turbos are often promoted as a product enabling the investor to profit more, more quickly or disproportionately from a specific price movement of the underlying value.

The AFM invited providers of turbos to share information on the use of turbos as a hedging instrument by their clients, and the outcomes of such use. For example, this could be in the form

[16] See Figure 19 in the study report.
[17] See footnote 16 in the study report.

of statistical or other portfolio data of their clients or documentation in which the provider emphatically recommends the turbo to the client as a hedging instrument. The AFM has not received any concrete or substantiated information that would result in an adjustment of the decision.

The AFM is aware of the German study to which several respondents refer. The AFM notes that the study concerns leveraged structured financial products (LSFP). In the study, LSFPs are defined as warrants (call and put options) and knock-out products (for example, down-and-out puts). The study concerns a different population of products than turbos alone. Options and turbos differ fundamentally in how they operate as hedge instrument in the fact that options lack any stop-loss feature. Unlike with turbos, options do not expose investors to the risk that the option loses its protective function by reaching the stop-loss level. Therefore, the conclusions of the German study cannot simply be applied to turbos without qualification.

Nor does the AFM see any grounds in the assertion that (German) investors in structured products are less risk-averse and have more knowledge and experience than the average investor any grounds for reconsideration. Given the complexity and risks of turbos, the distributor must establish by means of an assessment of appropriateness whether the retail investor in turbos has sufficient knowledge and experience, and should warn the investor if this is not the case. The circumstance that the turbo investor has the requisite knowledge, experience and risk appetite is not sufficient to remove the concern about investor protection, as set out in this decision.

The Dutch Authority for the Financial Markets
T +31 20 797 2000 | F +31 20 797 3800
PO Box 11723 | 1001 GS Amsterdam
www.afm.nl