

15 February 2011

Future of Financial Advice
Department of Treasury
Langton Crescent
Canberra
ACT 2600

(sent by post and via email to: futureofadvice@treasury.gov.au)

Dear Sir / Madam

IG Markets Limited (AFSL No 220440) - Response to Options Paper dated January 2011: Wholesale and Retail Clients: Future of Financial Advice

IG Markets Limited (IGM) is grateful for the opportunity to respond to the Options Paper noted above and to provide its comments on those matters within the same as they may affect the provision of Contracts for Differences (CFDs) to retail investors.

We would also very much appreciate the opportunity to meet to discuss the subject of client money and its use, specifically as it relates to s981D of the *Corporations Act 2001*. IGM has made formal submissions to ASIC in relation to our view of client money treatment in responses to CP114 and CP146, as well as other general communications, and we feel strongly that this matter should receive further discussion within government.

1. IG Markets Limited

By way of brief background, IGM deals in over the counter CFDs (OTC CFDs) on a broad array of financial instruments. IGM is regulated by ASIC and is a holder of Australian Financial Services Licence No. 220440. IGM's client base is substantially classified as retail and, as a direct consequence, its product offering is designed to meet the highest standards of product disclosure and compliance with all relevant legislative protections for the retail market.

For further information about IGM please see the enclosed annex, which provides a short summary of our business and our corporate group.

2. General response to the Options Paper

IGM thoroughly supports the Government's FOFA reforms and its efforts to improve, clarify and/or update the distinction between wholesale and retail clients in the context of financial services.

Nevertheless, as noted above, IGM's client base is very significantly classified as retail and as such its product offering is geared to always meet the highest standards of regulatory protection that may apply. IGM takes these

obligations very seriously and even goes beyond its legislative obligations in the protection it offers to client money. The Government may also be aware that we are currently in the midst of an additional Consultation Process with ASIC that specifically deals with OTC CFD compliance obligations (*Consultation Paper 146: Over-the-counter contracts for difference: Improving disclosure for retail investors*).

Because of the nature of IGM's client base we are of the view that further comment on the precise mechanics of the way in which wholesale and retail clients may be distinguished is best left to (other) market participants with a more vested interest. However, where we have specific comments on the Options Paper or matters within it that seem to require clarification we have set these out in further detail below.

3. Specific Comments

Section 6: International Comparisons (United Kingdom)

We refer to the ASIC Consultation Paper noted above (CP 146) in which ASIC is also considering implementing a form of appropriateness or suitability testing, specifically for the OTC CFD market.

We are aware that the Government is by no means sure of the way in which it may proceed following this Options Paper and that the summary of the UK position was providing both context and one of many options. However, if it opts to proceed with any form of experience or appropriateness testing, we ask that this be done in light of whatever the outcomes of CP146 may be so that OTC CFD providers are not left with dual or contradicting procedures that it is obliged to follow.

Should such a path be followed, we also note the perceived risk in implementing any such testing by product providers (as opposed to authorised advisers) that they will then come into direct conflict with the Corporations Act provisions regarding the meaning of "*financial product advice*". Care would need to be taken to ensure that financial product providers would not then be exposed to the risk of other actions against them, including but not limited to, breach of their AFSLs.

Section 7.9: Introduction of extra requirements for certain complex products

It is suggested in section 7.9 that CFDs are a complex product in the same category as CDOs and that because of this complexity and risk profile that CFDs played some tangible part in the Global Financial Crisis (GFC). This suggestion demonstrates a complete misunderstanding of CFDs and is extremely misleading.

CFDs are a retail derivative product that mirror the performance of underlying exchange traded markets. The scale of their use is insignificant when compared to CDOs nor have there been any reported large scale losses in the use of CFDs during the GFC. CFDs are not complex in the same way that CDOs are as the risk characteristics are not systemic. All of the risks associated with CFDs are disclosed in full to a very significantly retail market. The only link between CFDs and CDOs appears to be that they have a similar acronym and it is unfortunate that the Options Paper has made a link between the product and the GFC.

Notwithstanding our strongly held view that CFDs are not a complex product in the same category as a CDO, if the Government does proceed in setting extra requirements for products such as CFDs, then we feel very strongly that the full and proper protection of client money should be the first and most important obligation placed on product issuers. Such changes are not only in the interests of investor protection but also to ensure that all providers are complying with their regulatory obligations in a consistent manner. We believe IGM is currently the only OTC CFD provider not using client money for hedging or any other operational use. Without further regulatory support, IGM

may soon be forced to change its practices in line with the rest of the OTC CFD sector which would be a significant loss of protection for the OTC CFD market.

If you have any questions about this response document or any of the matters stated within, please do not hesitate to contact me personally on the details set out below

Yours faithfully
IG Markets Limited



Tamas Szabo
Chief Executive Officer
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ANNEX: SUMMARY OF IG MARKETS BUSINESS OPERATIONS

1) INTRODUCTION

IG Markets Limited deals in Contracts for Differences (CFDs) on a broad array of financial instruments. IGM was formed in the UK under the laws of England and Wales where it is regulated by the Financial Services Authority ("FSA"). IGM is also registered as an overseas company in both Australia and New Zealand where it is regulated by ASIC and the Securities Commission respectively.

2) INFORMATION ABOUT IGM AND THE IG GROUP

2.1 IGM and the IG Group

IGM is a member of the IG Group, which was established in 1974 in the UK. IG Group Holdings plc is the ultimate holding company of the IG Group and, in May 2005, its shares were listed on the London Stock Exchange. IG Group Holdings plc's market capital is currently in excess of £1.5 billion and it is a FTSE 250 company. The IG Group has offices in London, France, Spain, Portugal, Germany, Italy, Sweden, the United States, Japan, Australia and Singapore. It also has a Representative Office in China and employs approximately 950 people worldwide.

2.2 IGM's products

The core business of IGM is trading CFDs. As ASIC will be aware, a CFD is a form of derivative that is, in essence, an agreement to exchange the difference in the value of a particular financial instrument between the time at which a contract is opened and the time at which it is closed. IGM offers CFDs on a range of underlying markets including stock indices, individual shares, commodities, FX, interest rate products and options.

2.3 IGM's regulators

IGM's primary regulator is the Financial Services Authority ("FSA") in the UK. As noted above IGM also holds as AFSL in Australia where it has been in operation since 2002. IGM has activated its EU regulatory passport and provides services from branches in Germany, France, Italy, Spain, Portugal, Sweden, Ireland, Luxembourg and the Netherlands and is subject to conduct of business supervision by the regulators in these European countries. Other IG Group companies are regulated by the CFTC in the US, the Financial Services Agency in Japan, the Securities Commission in New Zealand and the Monetary Authority of Singapore.

2.4 More information about IGM and IG Group

IGM's website (www.igmarkets.com.au) contains a description of our CFDs, the range of markets offered, explains our online dealing platforms and provides examples of the way in which our products work. The site also contains our standard product disclosure notice, customer agreement and application forms.

The IG Group's corporate website (www.igggroup.com) contains further information about the IG Group of companies, including copies of our most recent report and accounts.