ASIC

Australian Securities & Investments Commission

CONSULTATION PAPER 146

Over-the-counter contracts for difference: Improving disclosure for retail investors

November 2010

About this paper

This consultation paper seeks your feedback on proposals to improve disclosure about over-the-counter contracts for difference (OTC CFDs) offered to retail investors. This paper covers both disclosure provided in Product Disclosure Statements (PDSs) and advertising.

It includes a draft regulatory guide that sets out benchmarks for improved disclosure to help retail investors better understand and assess these kinds of financial products.

Our proposals may also be of interest to those associated with the issue of exchange-traded CFDs.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This paper was issued on 17 November 2010 and is based on the Corporations Act as at 17 November 2010.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

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The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information.

We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on disclosure benchmarks for contracts for difference. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section C, Regulatory and financial impact.

Making a submission

We will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any financial information) as confidential.

Comments should be sent by 21 December 2010 to:

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Lawyer
Strategic Policy
Australian Securities and Investments Commission
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What will happen next?

Stage 1	17 November 2010	ASIC consultation paper released
Stage 2	21 December 2010	Comments due on the consultation paper
		Finalisation of regulatory guide
Stage 3	March 2011	Regulatory guide released

A Background to the proposals

Key points

We propose to introduce disclosure benchmarks for over-the-counter contracts for difference (OTC CFDs). The benchmarks are designed to improve disclosure for retail investors to enable more informed decisions about investing in products of this kind, and to make comparisons between the products and business models of different issuers more straightforward.

Compliance with the benchmarks is not mandatory, but Product Disclosure Statements (PDSs) and ongoing disclosures must address the benchmarks on an 'if not, why not' basis.

Our proposed guidance also provides some indication of the standards we expect an issuer to meet when advertising OTC CFDs to retail investors.

Contracts for difference

1 Contracts for difference (CFDs) are leveraged derivative products that allow investors trading in them to take a position on the change in the value of an underlying asset.

2 We have recently conducted research into the CFD market in Australia. We examined issuers' business models, disclosure documents and advertising, and investors' attitudes, behaviours and experience. Our findings are summarised in *Contracts for difference and retail investors* (REP 205).

3 As a result of this research, we are concerned that retail investors may be particularly at risk when investing in these kinds of products.

Note: This consultation paper uses the term 'retail investor' to refer to people who trade in CFDs, with the same meaning as 'retail client' as defined in s761G and 761GA of the *Corporations Act 2001* (Corporations Act).

4 CFDs are complex products, and are generally highly leveraged. Investors are often only required to make a small initial outlay of their own capital in order to commence trading. This degree of leverage exposes investors to the risk that even small losses in the value of CFD positions can lead to losses exceeding investors' own capital. In Australia, CFDs are also generally offered as over-the-counter (OTC) products, rather than through an exchange, which increases investors' exposure to counterparty risk (i.e. the risk that an issuer or other party to a CFD trade will default on obligations owed to the investor).

5 Despite these risks, we have found that retail investors commonly do not seek or receive personal financial advice before investing in OTC CFDs, but rely heavily on advertising material provided by the issuer to inform their decision to commence trading.

6 Given that so few retail investors seek advice from a financial professional before trading, the issuer's Product Disclosure Statement (PDS) is an important source of information about the product; however, from a review of a number of CFD PDSs, we have found that the documents are generally difficult to read and understand. We are concerned that CFD PDSs are generally not effective communication documents, and consequently that retail investors do not have access to the information they require before making a decision to invest.

Note: See REP 205, Section E, for further details about the findings of our review of CFD PDSs.

7 The proposals set out in this consultation paper are aimed at improving the disclosure available to retail investors about trading in OTC CFDs. This accord's with ASIC's statutory objective of promoting the confident and informed participation of investors and consumers in the financial system: s1(2)(b) of the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

The 'if not, why not' benchmark disclosure model

8 The benchmark disclosure model:

(a) identifies, for a particular financial product, the key risk areas potential investors should understand before making a decision to invest;

(b) sets a benchmark for how a product issuer should address these risks in establishing its business model and compliance procedures; and

(c) requires an issuer to state in the PDS and other disclosures whether it meets the benchmark, and if not, why not.

This model of disclosure provides concrete standards by which retail investors can assess financial products for which there are typically few such external benchmarks.

9 We first introduced benchmark disclosure requirements for unlisted, unrated debentures in October 2007: see Regulatory Guide 69 *Debentures and unsecured notes: Improving disclosure for retail investors* (RG 69). Since then, we have applied similar benchmarks to various other products.

10 We now propose to extend the benchmark disclosure model to OTC CFDs to improve the quality of disclosure provided to retail investors. Like other products to which we have previously applied this approach, we think that

retail investors will benefit from clear standards by which to evaluate and compare these products.

11 We do not propose to extend the benchmark disclosure model to exchange-traded CFDs. This is because we consider that there are some specific risks associated with trading in OTC products that are not a feature of exchange-traded products. These include the counterparty risk derived from trading without the procedures and guarantees of an exchange. Nevertheless, exchange-traded CFDs are still complex leveraged products that expose investors to the risk of significant losses resulting from market movements, and an issuer providing exchange-traded CFDs may also wish to consider whether any of the principles are relevant to its business practices, disclosure documents and advertising.

Draft regulatory guide

12 We have prepared a draft regulatory guide which sets out our proposals for disclosure benchmarks for OTC CFDs, and information on how and when these must be applied in disclosure to retail investors: see the attached draft regulatory guide.

13 It also provides some guidance on the standards we expect an issuer to meet when advertising OTC CFDs to retail investors.

B Disclosure benchmarks for OTC CFDs

Key points

ASIC proposes that an issuer of OTC CFDs to retail investors should:

- address certain key benchmarks in its PDSs and ongoing disclosures (see Section B of the draft regulatory guide);
- address the benchmarks on an 'if not, why not' basis in disclosures to retail investors from 1 June 2011;
- provide updated disclosure against the benchmarks for existing investors by 1 June 2011; and
- use advertising that supports investor understanding of any disclosures against the benchmarks and doesn't convey messages inconsistent with them.

Scope of the benchmarks

Proposal

B1 We propose to apply the disclosure benchmarks in Section B of the draft regulatory guide to OTC CFDs. An issuer providing exchange-traded CFDs or other OTC derivative products may also wish to consider whether any of the principles are relevant to its disclosure documents.

Your feedback

B1Q1 Do you agree with our proposed scope for the benchmarks? Please give reasons.

B1Q2 Do you think our proposed scope will affect competition in the CFD sector (e.g. by causing some issuers to exit the market or preventing them from offering particular products)?

B1Q3 Do you expect that our proposed guidance will affect investor behaviour, including the decision whether to invest in OTC CFDs?

B1Q4 Do you think the objectives of the benchmarks should be achieved through other means (e.g. by imposing licensing conditions)?

B1Q5 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.

Explanation

14 In Australia, most CFDs are not traded via an exchange—they are issued as OTC products. We consider that there are some specific risks associated with trading in OTC products that are not a feature of exchange-traded products. These include the counterparty risk derived from trading without the procedures and guarantees of an exchange or clearing house.

The proposed benchmarks

Proposal

B2 We propose that there should be clear benchmarks for nine significant areas of potential risk for retail investors trading in OTC CFDs:

(a) **Benchmark 1:** Client suitability (see RG 000.37–RG 000.44);

(b) **Benchmark 2:** Opening collateral (see RG 000.45–RG 000.48);

(c) **Benchmark 3:** Counterparty risk—Hedging (see RG 000.49–RG 000.55);

(d) **Benchmark 4:** Counterparty risk—Capital (see RG 000.56–RG 000.64);

(e) **Benchmark 5:** Counterparty risk—Liquidity (see RG 000.65–RG 000.70);

(f) **Benchmark 6:** Client money (see RG 000.71–RG 000.78);

(g) **Benchmark 7:** Halted or suspended underlying assets (see RG 000.79–RG 000.83);

(h) **Benchmark 8:** Margin calls (see RG 000.84–RG 000.91); and

(i) **Benchmark 9:** Fees and charges (see RG 000.92–RG 000.99).

Your feedback

B2Q1 Have we identified the relevant benchmarks? Are there any other benchmarks that are missing? Have we included anything that is not relevant?

B2Q2 Are there more effective ways of dealing with the risks faced by retail investors other than by benchmarks? Please give details.

B2Q3 In relation to Benchmark 5 (Counterparty risk—Liquidity), is twelve months an appropriate time period over which an issuer should be forecasting for the purposes of ensuring it has sufficient financial resources to meet its liabilities? If not, what would be an appropriate time period? Should ASIC also set out guidance on exactly how issuers should determine whether there are sufficient financial resources for the purposes of this benchmark? What should that guidance be? Please give reasons for your answer.

Explanation

15 The nine proposed benchmarks reflect information that we consider key to enabling retail investors to analyse the risks of OTC CFDs. The benchmarks reflect the findings of the qualitative research we have undertaken into CFD issuers, investors and promoters. The reasons why we believe it is important for an issuer of OTC CFDs to disclose against the benchmarks are explained in detail in Section B of the draft regulatory guide.

The ‘if not, why not’ approach

16 The ‘if not, why not’ approach means explaining how an issuer deals with the business factor or concern underlying the benchmark. This also includes explaining the alternative systems and controls an issuer has in place to deal with the concern underlying the benchmark where the benchmark is not itself met.

17 We are proposing to apply this approach to:

(a) upfront disclosures in the PDS; and

(b) ongoing disclosures.

Upfront disclosure

Proposal

B3 A relevant PDS should address each of the benchmarks set out in Section B of the draft regulatory guide on an ‘if not, why not’ basis, and either state that the issuer:

(a) meets the benchmark; or

(b) does not meet the benchmark and explain how and why the issuer deals with the concern underlying the benchmark in another way: see Table 4 of the draft regulatory guide.

Your feedback

B3Q1 Do you agree with our approach to the operation of the disclosure requirements? Please give reasons.

B3Q2 Are there practical problems for issuers in meeting our disclosure expectations? If so, what alternative would ensure investors are adequately informed?

B3Q3 If you are an issuer, will implementing our proposed approach to guidance result in:

(a) changes to the products you issue;

(b) changes to the structure of your business; or

(c) any other changes to your business?

B3Q4 If the answer to question B3Q3 is yes, please describe the changes and the likely costs involved.

Ongoing disclosure

Proposal

B4 Where there are material changes to the issuer's performance against the benchmarks, the issuer should deal with this in ongoing disclosures. We encourage issuers to communicate this information to investors as soon as practical by the most effective means possible (e.g. by updates on the issuer's website): see Table 5 of the draft regulatory guide.

Your feedback

B4Q1 Are there practical problems with expecting an issuer to disclose against the benchmarks on an ongoing basis? If so, what would ensure that investors are adequately informed about the issuer's ongoing performance?

B5 An issuer should also consider whether it would help investors to give them more frequent updates of the issuer's performance against the benchmarks. We recommend that an issuer update investors at least every six months: see Table 5 of the draft regulatory guide.

Your feedback

B5Q1 If you are an issuer, do you propose to provide investors with more frequent updates of this kind?

Timing for implementing disclosure against the benchmarks

Proposal

B6 We propose 1 June 2011 as the commencement date of the 'if not, why not' approach to disclosing against the benchmarks in all upfront and ongoing disclosures for new and current issuers of OTC CFDs: see Table 2 of the draft regulatory guide.

Your feedback

B6Q1 Do you agree with the proposed timetable for implementation of the benchmark approach for OTC CFDs?

B6Q2 Are there likely to be any practical problems in complying with this timetable? If so, what alternative would ensure investors are adequately informed?

B7 We propose that, by 1 June 2011, existing OTC CFD issuers should provide updated disclosure for existing investors that addresses each of the benchmarks on an 'if not, why not' basis: see Table 2 of the draft regulatory guide.

Your feedback

B7Q1 Do you agree with the proposed timetable for implementation of the benchmark approach for OTC CFDs?

B7Q2 Are there likely to be any practical problems in complying with this timetable? If so, what alternative would ensure investors are adequately informed?

Explanation

18 We think that it is important for existing and prospective retail investors to have access to improved disclosure on CFDs as soon as possible. The process of implementing our approach should include both updating PDSs for prospective investors and providing existing investors with updated disclosure that reflects the benchmark approach.

Advertising OTC CFDs

Proposal

B8 We propose that advertisements for CFDs should:

(a) support investor understanding of any disclosures against the benchmarks in Section B of the draft regulatory guide and not convey messages inconsistent with them; and

(b) include prominent statements that:

(i) CFD investors do not own or have any rights to underlying assets; and

(ii) trading in CFDs involves the risk of losing substantially more than the initial investment.

Your feedback

B8Q1 Are there any other statements that should be included in advertisements for CFDs?

B8Q2 Will our proposed approach to advertising cause any practical difficulties for your business? Please give details.

B8Q3 Can you suggest more effective ways of dealing with advertising issues?

B8Q4 If you are involved with the advertising of CFDs, will implementing our proposed approach result in:

(a) changes to the advertisements in question;

(b) changes to the structure of your business; or

(c) any other changes to your business?

B8Q5 If the answer to question B8Q4 is yes, please describe the changes and the likely costs involved.

Explanation

19 Experience suggests that retail investors place particular emphasis on the information and impressions given in advertisements. Advertisements do not always give a realistic impression of CFDs, their features and risks.

20 It is particularly problematic when advertisements give messages about a product that are inconsistent with the risks described in a complying PDS.

21 We propose to take a broad approach to the concept of ‘advertising’. ‘Advertising’ includes comment and promotion of CFDs in media programs or publications (generally known as ‘advertorials’) and statements about CFDs made by an issuer on its website (excluding statements in a PDS or other regulated disclosure document).

C Regulatory and financial impact

22 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we think they will strike an appropriate balance between:

(a) preventing the mis-selling of OTC CFDs; and

(b) not unduly interfering with the marketing and sale of financial products.

23 Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:

(a) considering all feasible options, including examining the likely impacts of the range of alternative options which could meet our policy objectives;

(b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR);

(c) if our proposed option has more than minor or machinery impact on business or the not for profit sector, preparing a Regulation Impact Statement (RIS).

24 All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.

25 To ensure that we are in a position to properly complete any required RIS, we ask you to provide us with as much information as you can about:

(a) the likely compliance costs;

(b) the likely effect on competition; and

(c) other impacts, costs and benefits,

of our proposals or any alternative approaches: see 'The consultation process' p. 4.

List of proposals and questions

Proposal	Your feedback
B1 We propose to apply the disclosure benchmarks in Section B of the draft regulatory guide to OTC CFDs. An issuer providing exchange-traded CFDs or other OTC derivative products may also wish to consider whether any of the principles are relevant to its disclosure documents.	B1Q1 Do you agree with our proposed scope for the benchmarks? Please give reasons. B1Q2 Do you think our proposed scope will affect competition in the CFD sector (e.g. by causing some issuers to exit the market or preventing them from offering particular products)? B1Q3 Do you expect that our proposed guidance will affect investor behaviour, including the decision whether to invest in OTC CFDs? B1Q4 Do you think the objectives of the benchmarks should be achieved through other means (e.g. by imposing licensing conditions)? B1Q5 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.
B2 We propose that there should be clear benchmarks for nine significant areas of potential risk for retail investors trading in OTC CFDs: (a) Benchmark 1: Client suitability (see RG 000.37–RG 000.44); (b) Benchmark 2: Opening collateral (see RG 000.45–RG 000.48); (c) Benchmark 3: Counterparty risk—Hedging (see RG 000.49–RG 000.55); (d) Benchmark 4: Counterparty risk—Capital (see RG 000.56–RG 000.64); (e) Benchmark 5: Counterparty risk—Liquidity (see RG 000.65–RG 000.70); (f) Benchmark 6: Client money (see RG 000.71–RG 000.78); (g) Benchmark 7: Halted or suspended underlying assets (see RG 000.79–RG 000.83); (h) Benchmark 8: Margin calls (see RG 000.84–RG 000.91); and (i) Benchmark 9: Fees and charges (see RG 000.92–RG 000.99).	B2Q1 Have we identified the relevant benchmarks? Are there any other benchmarks that are missing? Have we included anything that is not relevant? B2Q2 Are there more effective ways of dealing with the risks faced by retail investors other than by benchmarks? Please give details. B2Q3 In relation to Benchmark 5 (Counterparty risk—Liquidity), is twelve months an appropriate time period over which an issuer should be forecasting for the purposes of ensuring it has sufficient financial resources to meet its liabilities? If not, what would be an appropriate time period? Should ASIC also set out guidance on exactly how issuers should determine whether there are sufficient financial resources for the purposes of this benchmark? What should that guidance be? Please give reasons for your answer.
B3 A relevant PDS should address each of the benchmarks set out in Section B of the draft regulatory guide on an 'if not, why not' basis, and either state that the issuer:	B3Q1 Do you agree with our approach to the operation of the disclosure requirements? Please give reasons.

Proposal	Your feedback
(a) meets the benchmark; or (b) does not meet the benchmark and explain how and why the issuer deals with the concern underlying the benchmark in another way: see Table 4 of the draft regulatory guide.	B3Q2 Are there practical problems for issuers in meeting our disclosure expectations? If so, what alternative would ensure investors are adequately informed? B3Q3 If you are an issuer, will implementing our proposed approach to guidance result in: (a) changes to the products you issue; (b) changes to the structure of your business; or (c) any other changes to your business? B3Q4 If the answer to question B3Q2 is yes, please describe the changes and the likely costs involved.
B4 Where there are material changes to the issuer's performance against the benchmarks, the issuer should deal with this in ongoing disclosures. We encourage issuers to communicate this information to investors as soon as practical by the most effective means possible (e.g. by updates on the issuer's website): see Table 5 of the draft regulatory guide.	B4Q1 Are there practical problems with expecting an issuer to disclose against the benchmarks on an ongoing basis? If so, what would ensure that investors are adequately informed about the issuer's ongoing performance?
B5 An issuer should also consider whether it would help investors to give them more frequent updates of the issuer's performance against the benchmarks. We recommend that an issuer update investors at least every six months: see Table 4 of the draft regulatory guide.	B5Q1 If you are an issuer, do you propose to provide investors with more frequent updates of this kind?
B6 We propose 1 June 2011 as the commencement date of the 'if not, why not' approach to disclosing against the benchmarks in all upfront and ongoing disclosures for new and current issuers of OTC CFDs: see Table 2 of the draft regulatory guide.	B6Q1 Do you agree with the proposed timetable for implementation of the benchmark approach for OTC CFDs? B6Q2 Are there likely to be any practical problems in complying with this timetable? If so, what alternative would ensure investors are adequately informed?
B7 We propose that, by 1 June 2011, existing OTC CFD issuers should provide updated disclosure for existing investors that addresses each of the benchmarks on an 'if not, why not' basis: see Table 24 of the draft regulatory guide.	B7Q1 Do you agree with the proposed timetable for implementation of the benchmark approach for OTC CFDs? B7Q2 Are there likely to be any practical problems in complying with this timetable? If so, what alternative would ensure investors are adequately informed?
B8 We propose that advertisements for CFDs should: (a) support investor understanding of any disclosures against the benchmarks in	B8Q1 Are there any other statements that should be included in advertisements for CFDs? B8Q2 Will our proposed approach to advertising cause any practical difficulties for your

Proposal	Your feedback
Section B of the draft regulatory guide and not convey messages inconsistent with them; and (b) include prominent statements that: (i) CFD investors do not own or have any rights to underlying assets; and (ii) trading in CFDs involves the risk of losing substantially more than the initial investment.	business? Please give details. B8Q3 Can you suggest more effective ways of dealing with advertising issues? B8Q4 If you are involved with the advertising of CFDs, will implementing our proposed approach result in: (a) changes to the advertisements in question; (b) changes to the structure of your business; or (c) any other changes to your business? B8Q5 If the answer to question B8Q4 is yes, please describe the changes and the likely costs involved.

ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 000

Over-the-counter contracts for difference: Improving disclosure for retail investors

November 2010

About this guide

This guide is for those involved with the issue or advertising of over-the-counter contracts for difference (OTC CFDs) to retail investors. It may also be of interest to issuers of exchange-traded CFDs.

It sets out guidelines for improved disclosure to retail investors to help them understand and assess these products. It also provides guidance on the advertising of OTC CFDs to retail investors.

> Note: In providing this guidance, ASIC seeks to improve the disclosure given to retail investors to ensure they have all the information they need to make an informed investment decision. However, this guide should not be regarded as an indication that ASIC regards these products as being suitable for all or most retail investors.

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- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This draft guide was issued on 17 November 2010 and is based on legislation and regulations as at 17 November 2010.

Disclaimer

This draft guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this draft guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

ASIC has developed nine disclosure benchmarks for over-the-counter contracts for difference (OTC CFDs) that can help retail investors understand the risks associated with these products, assess their potential benefits and decide whether investment in the products is suitable for them: see RG 000.15–RG 000.18 and Table 1. Some of the benchmarks may also be relevant for exchange-traded CFDs.

An issuer of OTC CFDs to retail investors should address the benchmarks in its disclosure on an 'if not, why not' basis: see RG 000.20–RG 000.25.

An issuer should also ensure that advertising is consistent with information provided in disclosure documents: see RG 000.32–RG 000.35.

Existing issuers must refer to the benchmarks in new PDSs and ongoing disclosure on an 'if not, why' basis.

Contracts for difference and retail investors

RG 000.1 Contracts for difference (CFDs) are leveraged derivative products that allow investors trading in them to take a position on the change in the value of an underlying asset.

Note: While the term 'derivative' has the meaning given by s761D of the *Corporations Act 2001* (Corporations Act), the term 'contract for difference' is not defined in legislation. This regulatory guide applies to leveraged derivative products that allow investors trading in them to take a position on the change in the value of an underlying asset, whether they are marketed as CFDs or by some other name.

RG 000.2 In Australia, most CFDs are not traded via an exchange—they are issued as over-the-counter (OTC) products. They are generally marketed to, and traded by, retail investors. Many of these retail investors do not seek or receive financial advice before deciding to invest, instead relying on advertising and disclosure materials to inform their decision to invest.

Note: This regulatory guide uses the term 'retail investor' to refer to people who trade in CFDs, with the same meaning as 'retail client' as defined in s761G and 761GA of the Corporations Act.

RG 000.3 In developing this regulatory guide, ASIC conducted a 'health check' of the CFD market, including examining issuers' business models, disclosure documents and advertising, and investors' attitudes, behaviours and experience. Our findings are summarised in our report *Contracts for difference and retail investors* (REP 205).

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RG 000.4 As a result of this research, we are concerned that retail investors may be particularly at risk when investing in these kinds of products.

RG 000.5 Retail investors are often attracted to CFDs in anticipation of promised high rates of return for limited initial capital outlay. However, we regard CFDs as being complex products with a number of inherent risks. For example, CFDs are often highly leveraged, which means that investors can take on a high degree of market risk with only a relatively small initial deposit. This degree of leverage raises the risk that even small losses in the value of CFD positions can lead to losses exceeding the capital initially provided by investors.

RG 000.6 We are concerned that this complexity and risk means that these types of product are unlikely to be appropriate for the investment objectives, needs and risk profile of many retail investors.

RG 000.7 Our research suggests that retail investors do not fully understand the risks of trading in CFDs. This is partly due to the inherent complexity of the subject matter. However, we have also found that disclosure documents are often difficult to understand, and do not highlight key information.

RG 000.8 Given that most retail investors do not obtain personal financial advice before investing in CFDs, instead relying solely on information provided in disclosure documents, it is crucial to ensure that these disclosure documents are of a high quality and contain all the information that investors require to make an informed decision. This regulatory guide seeks to improve disclosure on OTC CFDs, to ensure that retail investors are provided with documents of this standard. However, this guide should not be regarded as an indication that ASIC regards these products as being suitable for all or most retail investors.

Who this regulatory guide applies to

RG 000.9 This regulatory guide is for issuers of OTC CFDs, and any other persons responsible for preparing a Product Disclosure Statement (PDS) for an offer of OTC CFDs.

Note: Section 1013A of the Corporations Act sets out who is responsible for preparing a PDS in various circumstances.

RG 000.10 In light of our recent work in examining the CFD market, at this stage this regulatory guide focuses on CFDs, rather than including all similar OTC derivative products. Nevertheless, an issuer of these other products may find this regulatory guide a useful prompt to re-examine and improve its own disclosure if necessary. If problems emerge with other OTC derivative products, we will consider whether further disclosure guidance is warranted.

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RG 000.11 Additionally, this regulatory guide does not discuss exchange-traded products. We consider that there are some specific risks associated with trading in OTC products that are not a feature of exchange-traded products. These include the counterparty risk derived from trading without the procedures and guarantees of an exchange. Nevertheless, exchange-traded CFDs are still complex leveraged products that expose investors to the risk of significant losses resulting from market movements. An issuer of exchange-traded CFDs may also wish to consider whether any of the disclosure principles in this regulatory guide are relevant to its business practices, disclosure documents and advertising.

Improving disclosure on OTC CFDs

The role of disclosure

RG 000.12 The disclosure framework in the Corporations Act requires an issuer of CFDs and other derivatives to:

(a) disclose upfront to retail investors all the information they reasonably need to know in order to make a decision about whether or not to acquire the product; and

(b) provide ongoing disclosure about material matters to help retail investors monitor whether their expectations are being met.

RG 000.13 Disclosure is not designed to stop retail investors from taking investment risks, but to help them understand the risks involved in any particular investment or type of investment. This enables them to make an informed decision about whether the potential reward (the return on their investment) matches the level of risk involved, and whether they are prepared to take on that risk.

RG 000.14 Given the risks for retail investors associated with CFDs, and the fact that many rely on advertising and disclosure material to inform their decision to invest, we think that it is necessary to ensure that disclosure provides retail investors with all the information they need to make an informed investment decision. This may include a decision not to invest in these products in some cases.

Benchmark disclosure

RG 000.15 The benchmark disclosure model:

(a) identifies, for a particular financial product, the key risk areas potential investors should understand before making a decision to invest;

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(b) sets a benchmark for how a product issuer should address these risks in establishing its business model and compliance procedures; and

(c) requires an issuer to state in the PDS and other disclosures whether it meets the benchmark, and if not, why not.

This model of disclosure provides concrete standards by which retail investors can assess financial products for which there are typically few such external benchmarks.

RG 000.16 We have decided that it is appropriate to extend the benchmark model of disclosure, which we have previously applied to other products, to CFDs issued to retail investors as OTC products. Some of the benchmarks outlined in this regulatory guide may also be relevant to other similar OTC products, as well as exchange-traded CFDs.

Note: See Regulatory Guide 45 *Mortgage schemes—improving disclosure for retail investors* (RG 45), Regulatory Guide 46 *Unlisted property schemes—improving disclosure for retail investors* (RG 46) and Regulatory Guide 69 *Debentures and unsecured notes: Improving disclosure for retail investors* (RG 69) for other examples of the benchmark disclosure approach.

The nine disclosure benchmarks

RG 000.17 We have developed nine disclosure benchmarks: see Table 1 and Section B. We expect the benchmarks to be followed (as applicable) and, if not followed, explained on an 'if not, why not' basis: see RG 000.20 and Section B, Table 4. We also expect any advertising to support the use of these benchmarks: see RG 000.32–RG 000.35.

RG 000.18 The nine benchmarks address key issues that we think should be:

(a) highlighted in disclosure relating to OTC CFDs; and

(b) discussed in a manner that allows prospective retail investors to make an informed decision about whether to invest.

Table 1: Benchmarks for OTC CFDs issued to retail investors

1	**Client suitability**	Benchmark 1 addresses the issuer's policy on investors' suitability for CFD trading.
2	**Opening collateral**	Benchmark 2 addresses the issuer's policy on the types of assets accepted from investors as opening collateral.
3	**Counterparty risk—Hedging**	Benchmark 3 addresses the issuer's practices in hedging its risk from client positions and the quality of this hedging.
4	**Counterparty risk—Capital**	Benchmark 4 addresses whether the issuer holds sufficient capital to address its exposure to risk.

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5	**Counterparty risk—Liquidity**	Benchmark 4 addresses whether the issuer has engaged in sufficient planning to ensure it has the financial resources to meet its liabilities when necessary.
6	**Client money**	Benchmark 6 addresses the issuer's policy on its use of client money.
7	**Halted or suspended underlying assets**	Benchmark 7 addresses the issuer's practices in relation to investor trading when trading in the underlying asset is suspended.
8	**Margin calls**	Benchmark 8 addresses the issuer's practices in the event of client accounts entering into margin call.
9	**Fees and costs**	Benchmark 9 addresses the transparency of the issuer's disclosure of fees and costs.

RG 000.19 In addition to these benchmarks, we have also developed an investor guide, *Thinking of trading contracts for difference (CFDs)?*, to better enable potential investors to understand the nature of CFD trading and assess whether it is likely to be suitable for them. This includes a series of questions we suggest potential investors should ask an issuer about its business model: reproduced as an appendix to this regulatory guide. We expect that potential investors will be able to use the PDS to answer these questions.

Disclosure against the benchmarks—'If not, why not'

RG 000.20 An issuer should address the benchmarks in its disclosure on an 'if not, why not' basis. This means stating that the issuer either:

(a) meets the benchmark; or

(b) does not meet the benchmark, and explaining why not.

RG 000.21 'Why not' means explaining how an issuer deals with the business factor or concern underlying the benchmark (including the alternative systems and controls the issuer has in place to deal with the concern). The disclosure required against each benchmark is summarised in Section B, Table 4.

Note: Where a benchmark contains multiple requirements, if an issuer cannot meet all requirements under a benchmark, they should state that they do not meet the benchmark and clearly explain why they failed to meet particular requirements.

RG 000.22 Failing to meet one or more of these benchmarks does not mean that a product provided by a particular issuer necessarily represents a poor investment. However, the issuer will need to explain what alternative measures they have in place to mitigate the concern underlying the benchmark.

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RG 000.23 Disclosure against the benchmarks should be:

(a) addressed upfront in the PDS;

(b) updated in ongoing disclosures as material changes occur (e.g. in a supplementary PDS); and

(c) supported in, and not undermined by, advertising material.

In the interests of ensuring that existing investors are well informed, an issuer may also choose to provide regular reports on its compliance with the benchmarks in other materials (e.g. monthly or quarterly fund updates), although providing updates in this form will not relieve the issuer from its disclosure requirements if any material changes occur.

RG 000.24 We believe that our approach balances:

(a) the need to improve disclosure to allow investors to make better informed decisions; and

(b) the desirability of avoiding undue interference with this market as a means for consumers to make investments.

Note: The need to strike an appropriate balance between protecting investors' interests and allowing markets to operate freely is part of ASIC's mandate under the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

RG 000.25 Our approach should not result in longer disclosures. Our experience indicates that investors need better quality and relevant disclosure, presented in a way best suited to investor understanding.

Applying the benchmarks to the issuer's business model

RG 000.26 Among issuers that provide OTC CFDs, there are two main business or pricing models that the industry and investors refer to (see REP 205, paragraph 52):

(a) A market maker quotes its own prices for each asset over which it writes CFDs. Investors are expected to be price takers. As a market maker, client orders create a corresponding position, which the issuer may retain or hedge. A market maker can write CFDs against synthetic assets (such as indices) or real assets, even if there is little or no liquidity in the underlying market. As a result, it tends to offer a wider range of CFDs than other issuers.

(b) A direct market access issuer (DMA issuer) automatically places each client order into underlying markets and therefore does not carry any market risk from the trade. As a result, this issuer relies on there being volume in the underlying market in order for it to issue CFDs. Using programs that capture exchange data feeds, investors can actually see the matching orders placed by their DMA issuer into the underlying market.

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In practice, an issuer may use different models for different asset classes or offer a choice of models to investors.

RG 000.27 An issuer must meet the PDS content requirements to provide information about the significant characteristics and risks of the product: s1013D(1)(c) and 1013D(1)(f). This means it needs to ensure that its disclosure documents clearly explain the type of business model it operates and highlight to potential investors any particular risks associated with that model. In disclosing against the specific benchmarks set out in this regulatory guide, an issuer should ensure that its explanation of how it is meeting the benchmarks addresses the particular characteristics and risks associated with the type of business it operates.

RG 000.28 It is also essential to an investor's understanding of the issuer's business model that they know the identity of the entities that are providing the product. The PDS should clearly provide the name of the entity with which the investor will contract. If the issuer provides CFDs via a white label or wholesale partnering arrangement, the PDS should disclose the identity of that partner.

Applying the benchmarks to counterparty risk

RG 000.29 A key area of risk associated with OTC CFDs is the counterparty risk borne by investors (i.e. the potential for the issuer or the party on the other side of the position to be unable to fulfil their obligations, resulting in loss for the investor). Trades are not guaranteed by an exchange or clearing house, and investors therefore face the risk that the issuer may fail to meet some or all of its obligations (e.g. processing trades and returning profits made on trading).

RG 000.30 Investors must rely on the issuer to have in place appropriate arrangements to minimise the risk that it will not be able to meet its obligations. This means that an issuer needs to consider all the sources of risk to which it is exposed (e.g. market and operational risk, and the counterparty risk the issuer itself sustains when dealing with third parties). These risks may be amplified by practices on the issuer's part, including:

(a) inadequate hedging practices, including not hedging a sufficient proportion of the issuer's exposure to risk and concentrating hedging with only a small number of hedging counterparties; and

Note: The term 'hedging' in this regulatory guide refers to the process where an issuer offsets a financial exposure (i.e. the issuer's contractual responsibility under a CFD entered into with investors) by making an off-setting transaction with another entity (a hedging counterparty) or on underlying markets.

(b) holding insufficient capital to meet losses due to unhedged positions, or the default of hedging counterparties.

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RG 000.31 A number of the disclosure benchmarks are aimed at reducing counterparty risk for investors. That is, they concern practices that may reduce the risk that an issuer will not be able to meet its obligations.

Advertising CFDs

RG 000.32 Advertising is an important mechanism for CFD issuers to recruit new investors, generate interest in CFD trading, and create awareness of the product.

Note: References to 'advertisements' in this regulatory guide should be read broadly. They include comment on and promotion of CFDs in media programs or publications (generally known as 'advertorials') and statements about CFDs published by an issuer on its website. They do not, however, include statements in a PDS.

RG 000.33 Our research indicates that retail investors who are thinking about investing place particular emphasis on the information and impressions given in advertisements. Indeed, given that most CFD issuers distribute directly to investors rather than through advisers, the information contained or implied in advertisements is often the first, and may be the only, information that investors use to decide whether or not to trade in CFDs and which issuer to use.

RG 000.34 Our research identified some specific issues in the advertising of CFDs, including that many advertisements do not make adequate reference to the risks associated with CFDs. In general, we are concerned that the wording and presentation of CFD advertising is often liable to target a very broad audience, despite the fact that CFD trading is not likely to meet the investment objectives, needs and risk profile of many investors.

RG 000.35 To promote investor understanding of CFDs and minimise the risk of advertising creating a misleading impression, an issuer should ensure that advertising is not inconsistent with any information provided in disclosure documents and that the advertising is targeted at an appropriate audience. This regulatory guide also notes certain statements that an issuer should ensure are included prominently in advertising, to ensure that a balanced view is provided: see Section B.

Timeline for implementing improved disclosure

RG 000.36 Table 2 outlines the key dates in implementing the proposed benchmark disclosure model.

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Table 2: Timeline for implementing improved disclosure

Before 1 June 2011	• Existing issuers must address the benchmarks on an 'if not, why not' basis in updated disclosure, and bring it directly to the attention of existing investors.
From 1 June 2011	• Existing issuers must refer to the benchmarks in new PDSs and ongoing disclosure on an 'if not, why' basis. • Issuers of new OTC CFDs must have PDSs and ongoing disclosure that discloses against the benchmarks on an 'if not, why not' basis.
Between 1 June and 31 August 2011	• We will review updated investor disclosures to check that benchmarking information is adequately disclosed to investors on an 'if not, why not' basis. • We will also: – work with issuers to ensure that the benchmarks and our disclosure expectations are understood; – discuss any concerns we have about an issuer's disclosure with them and, where necessary, require additional disclosure (e.g. about the practical impact of not following a particular benchmark and the associated risks for investors); and – conduct surveillance visits as needed to reinforce our disclosure expectations. Note: See REP 205, paragraphs 21–29, for further details of our future work on OTC CFDs.

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B The disclosure benchmarks

Key points

All issuers of OTC CFDs should address general benchmarks on:

- client suitability (see RG 000.37–RG 000.44);
- opening collateral (see RG 000.45–RG 000.48);
- counterparty risk—hedging (see RG 000.49–RG 000.55);
- counterparty risk—capital (see RG 000.56–RG 000.64);
- counterparty risk—liquidity (see RG 000.65–RG 000.70);
- client money (see RG 000.71–RG 000.78);
- halted or suspended underlying assets (see RG 000.79–RG 000.83);
- margin calls (see RG 000.84–RG 000.91); and
- fees and costs (see RG 000.92–RG 000.99).

Benchmark 1: Client suitability

RG 000.37 An issuer should maintain and apply a written client suitability policy that:

(a) sets out the minimum qualifications that prospective investors will need to demonstrate they meet before the issuer will agree to open a new account on their behalf; and

(b) outlines the processes the issuer has in place to ensure that prospective investors who do not meet the criteria are not able open an account and trade in CFDs.

Explanation

RG 000.38 The complexity and risk inherent in OTC CFDs means that these types of products are unlikely to be appropriate for the investment objectives, needs and risk profile of many retail investors. An issuer should have in place appropriate processes to reduce the risk of investors beginning to trade in OTC CFDs when such products would be unlikely to be suitable investments for them. This is important, both from the perspective of investor protection and to ensure that an issuer is not exposed to an unacceptable risk through contracting with investors who may default. A significant client default may have consequences for both an issuer and other investors.

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RG 000.39 The qualifying criteria set out in the policy should be reasonable in relation to the risks associated with trading in CFDs. Criteria should address the investor's ability to withstand potential losses, including their:

(a) income and assets;

(b) previous experience in investing in financial products, including securities and derivatives;

(c) understanding of the concepts of leverage, margins and volatility;

(d) understanding of the nature of CFD trading, including that CFDs do not provide investors with interests or rights in the underlying asset over which a position is taken;

(e) understanding of the processes and technologies used in trading; and

(f) preparedness to monitor and manage the risks of trading.

Note: ASIC's investor guide, *Thinking of trading contracts for difference (CFDs)?* includes a series of questions potential investors may use to self-assess their suitability for CFD trading. These questions may provide a useful reference for an issuer in developing or updating its client suitability policy.

RG 000.40 Correct application of the policy should be supported by the issuer having in place:

(a) a prospective investor knowledge test, as a prerequisite step in the approval process;

(b) adequate explanation in the PDS about the nature of CFD trading—the PDS should clearly state that CFDs do not provide investors with interests or rights in the underlying asset over which a position is taken; and

(c) a practice account system.

Note: A practice account system allows prospective investors to trade on a virtual basis for a period of time before proceeding to open an actual account. Such systems mirror the functions of actual accounts offered by the issuer.

RG 000.41 Any practice systems or equipment offered to prospective investors should be offered on a non-obligatory basis, so that they do not feel obliged to proceed with the issuer at the end of the trial period.

PDS disclosure

RG 000.42 If an issuer complies with this benchmark, the PDS should clearly explain:

(a) that trading in CFDs is not suitable for all investors, because of the significant risks involved; and

(b) how the issuer's client suitability policy operates in practice.

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RG 000.43 If an issuer does not have such a policy in place, or one that does not incorporate all of the elements described in RG 000.39, it should disclose this in the PDS and explain why this is so.

Advertising

RG 000.44 Any advertising of CFDs should be consistent with the issuer's client suitability policy—that is, it shouldn't target an unreasonably broad audience, or provide the impression that CFD trading is likely to be suitable for an unlimited range of investors. Advertising that is not sufficiently targeted at a suitable audience risks creating an overall impression that CFDs are easy to use, which for many retail investors may not be the case.

Benchmark 2: Opening collateral

RG 000.45 An issuer should only accept cash or cash equivalents from investors as opening collateral when establishing an account to trade in CFDs.

Explanation

RG 000.46 Accepting other types of assets as opening collateral (e.g. securities, real property or credit card accounts) may expose investors to a greater risk of entering into financial difficulty, should they experience trading losses, than if they simply provided cash. Additionally, it is more likely that investors who are unable to provide cash when opening accounts will not hold sufficient funds to maintain margins on an ongoing basis.

PDS disclosure

RG 000.47 If an issuer complies with this benchmark, the PDS should explain the types of assets the issuer will accept as opening collateral.

RG 000.48 If an issuer accepts non-cash assets as opening collateral, the PDS should explain why the issuer does so and the additional risks that using other types of assets (e.g. securities, real property and credit card accounts) as opening collateral may pose for the investor. This includes, for example, the risks of 'double leverage' if credit card payments or other leveraged assets are accepted as opening collateral.

Benchmark 3: Counterparty risk—Hedging

RG 000.49 An issuer should maintain and apply a written policy to manage its exposure to market risk from client positions, which includes a practice of engaging

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multiple hedging counterparties of sufficient financial standing. Policies should be displayed in an up-to-date form on the issuer's website.

Explanation

RG 000.50 As discussed in RG 000.29–RG 000.30, investing in OTC CFDs exposes investors to counterparty risk. Investors need to rely on the issuer taking appropriate measures to reduce the risk that it will not be able to meet liabilities. Such measures include having in place appropriate hedging strategies with multiple counterparties that the issuer has assessed as being of strong financial standing.

RG 000.51 While it is important that this policy be made available to investors, we recognise that an issuer's hedging arrangements may change from time to time, and therefore it may not be practical for the issuer to provide a full explanation of its hedging policy in the PDS. Therefore, the issuer's website is likely to be the more appropriate location to publish this document in full. The document should be maintained in an up-to-date form at all times.

RG 000.52 The policy should not imply that the issuer is able to significantly reduce counterparty risk simply by the fact that it engages in hedging, but should provide sufficient explanation to allow investors to evaluate the quality of its hedging, including:

(a) the nature and extent of the hedges;

(b) who the issuer contracts with to provide the hedges; and

(c) the probability of hedges not meeting the issuer's exposure to client positions.

PDS disclosure

RG 000.53 If an issuer complies with this benchmark, the PDS should provide the following explanations:

(a) a broad overview of the nature of hedging activity the issuer undertakes to mitigate counterparty risk, and the probability of the hedges not meeting the issuer's exposure to client positions; and

(b) details about where investors can find the issuer's more detailed policy on the activities it undertakes to mitigate counterparty risk.

RG 000.54 If an issuer does not meet this benchmark, it should disclose this in the PDS and explain why this is so. If the issuer relies on one or two hedging counterparties only, it should explain this and the risks associated with its reliance on these arrangements.

RG 000.55 To meet the obligation, the issuer should include in the PDS information about the significant risks associated with the product: s1013D(1)(c). The

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PDS should also provide a clear explanation of the counterparty risk associated with OTC CFDs. The PDS should explain that, if the issuer defaults on its obligations, investors may become unsecured creditors in an administration or liquidation and will not have recourse to any underlying assets in the event of their issuer's insolvency.

Benchmark 4: Counterparty risk—Capital

RG 000.56 An issuer should maintain and apply a written policy to maintain adequate financial resources, which details how the issuer:

(a) monitors its compliance with its Australian Financial Service (AFS) licence financial requirements; and

(b) allocates capital against the various sources of risk to which it is exposed.

Explanation

RG 000.57 An AFS licensee is required to maintain adequate financial resources to provide the financial services covered by its licence and have in place adequate risk management systems: s912A(1)(d), 912A(1)(h).

RG 000.58 ASIC applies minimum financial requirements by licence condition, depending on the nature of the financial services provided by the licensee. These requirements are described in Regulatory Guide 166 *Licensing: Financial requirements* (RG 166). Under these requirements, an OTC CFD issuer is required to:

(a) make provision for expected liabilities and risks, by meeting the base level financial requirements (including a cash needs requirement: see RG 166.23 and RG 000.66); and

(b) hold a portion of capital against unexpected risk, by meeting the adjusted surplus liquid funds (ASLF) requirement: see RG 166.115.

These requirements are designed to reduce the risk that an issuer will not be able meet its obligations in circumstances where its counterparties depend on its financial performance.

RG 000.59 In addition to meeting these minimum financial requirements, and as part of the obligation to have in place adequate risk management systems, it is important that an issuer anticipate any expected or unexpected risks that may hinder its ability to meet its obligations to investors, and consider whether it needs to hold additional capital to meet them.

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RG 000.60 The risks that an issuer should consider in this context are:

(a) operational risk—by this we mean the risk of loss resulting from inadequate or failed internal processes, people and systems, or from external events (including legal, but not strategic or market risk); and

(b) the counterparty risk incurred in dealing with third parties—for example, through:

(i) retaining open positions;

(ii) encountering adverse market movements; and

(iii) the failure of one or more hedging counterparties.

RG 000.61 An issuer should maintain and apply a written policy of:

(a) assessing its exposure to risks that may hinder its ability to meet its counterparty obligations;

(b) assessing whether its capital holdings are sufficient to meet these risks; and

(c) allocating sufficient capital to each area of risk, including making provision for a financial buffer to withstand unexpected adverse events.

PDS disclosure

RG 000.62 If an issuer complies with this benchmark, the PDS should explain how the issuer's policy operates in practice.

RG 000.63 If an issuer does not comply, it should explain why and what alternative strategies it has in place to ensure it has the financial capacity to minimise the counterparty risk exposure of its investors.

RG 000.64 An issuer should also make financial statements available to prospective investors, either online or as an attachment to the PDS.

Benchmark 5: Counterparty risk—Liquidity

RG 000.65 An issuer should maintain and apply a policy to ensure that it holds sufficient financial resources to meet its liabilities over a projected term of twelve months. The policy should include the practice of:

(a) forecasting anticipated revenue and liabilities on a rolling twelve-month basis; and

(b) planning to ensure that an issuer has sufficient resources to meet those liabilities over that period.

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Explanation

RG 000.66 An AFS licensee is required to meet the cash needs requirement set out in RG 166.22(c), through one of the five alternative approaches. The purpose of this requirement is to ensure that cash shortfalls do not put at risk a licensee's compliance with its obligation to have sufficient resources to provide the financial services authorised by its licence, and that a licensee employs forward thinking in anticipating the cash needs of its business.

RG 000.67 An OTC CFD issuer operates in a dynamic and volatile environment, with a high rate of cash turnover, and it needs to ensure it has access to sufficient liquid assets to meet all of its liabilities as and when they are due. An issuer that has insufficient financial resources in this regard risks not being able to meet its obligations to investors or needing to have recourse to client monies to meet its obligations (see Benchmark 6, discussed in RG 000.71–RG 000.78).

RG 000.68 Accordingly, we think the appropriate business practice for an issuer is—in addition to meeting the minimum requirements—to prepare forecasts for a rolling 12-month period and to ensure that the issuer has sufficient resources to meet its liabilities over that period, without necessarily needing to have recourse to client monies for this purpose.

PDS disclosure

RG 000.69 If an issuer complies with this benchmark, the PDS should explain how the issuer's policy operates in practice.

RG 000.70 If an issuer does not comply, it should explain why and what alternative strategies it has in place to ensure it has the financial resources to meet its liabilities and minimise the counterparty risk exposure of its investors.

Benchmark 6: Client money

RG 000.71 An issuer should maintain and apply a clear policy on its use of client money, including whether it relies on funds deposited by one investor to meet the margin or settlement requirements of another.

Explanation

RG 000.72 The Corporations Act sets out various rules about how an AFS licensee should deal with money paid to it by its clients in connection with a financial service or product: s981A–H.

> Note 1: This regulatory guide refers to the rules contained in s981A–H collectively as the 'client money rules'.

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Note 2: The client money rules do not apply to:

(a) money paid as remuneration to a licensee;

(b) money paid to reimburse (or discharge a liability incurred by) the licensee for payment made to acquire a financial product;

(c) money paid to acquire a financial product from the licensee;

(d) loan money; or

(e) money paid to be credited to a deposit product (s981A(2)).

RG 000.73 If the client money relates to derivatives, an AFS licensee is permitted to use client money to meet obligations incurred by the licensee in connection with margining, guaranteeing, securing, transferring, adjusting or settling dealings in derivatives by the licensee, including dealings on behalf of people other than the client: see s981D. This exposes investors to the risk that, in the event of the failure of another client or the licensee, a client will not receive all of their client money back: see Regulatory Guide 212 *Client money relating to dealing in OTC derivatives* (RG 212) at RG 212.14 for more detailed discussion of the counterparty risks associated with the use of client money in relation to derivatives.

RG 000.74 An AFS licensee is also permitted to withdraw amounts from its client money account in certain circumstances, including to defray brokerage and other charges: see the Corporations Regulations 2001 (Corporations Regulations), reg 7.8.02. If an issuer withdraws a margin deposit from its client money account at the opening of a derivative position, the client is an unsecured creditor of the issuer for any payment that the licensee may be required to make on the close of the derivative position or as a consequence of ‘mark-to-market’ adjustments during the currency of the derivative. This exposes clients to the risk that the issuer will not be able to perform these obligations: see RG 212.52–RG 212.64.

RG 000.75 In light of these risks, an issuer should develop a straightforward client money policy that includes a clear statement of how it will exercise any other permitted discretions in its use of client money—for example, in RG 212, we suggest this should include details of when an entitlement to margin deposits will be claimed: see RG 212.15.

PDS disclosure

RG 000.76 If an issuer complies with this benchmark, the PDS should clearly:

(a) describe the client money policy, including how the issuer deals with client money and when, and on what basis, it makes withdrawals from client money; and

(b) explain the counterparty risk associated with the use of client money for derivatives.

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RG 000.77 If an issuer does not have such a policy in place, or one that does not incorporate all of the elements described above, it should disclose this in the PDS. If an issuer's policy allows it to rely on funds deposited by one client to meet the margin or settlement requirements of another client, it should very clearly and prominently explain this and the additional risks to client money entailed by this practice.

RG 000.78 An issuer's client money policy should be explained in the PDS in a way that allows potential investors to properly evaluate and quantify the nature of the risk, if any, to client money. This could include financial information of the issuer, so that a potential investor can adequately quantify the licensee's solvency: see RG 212.17.

Benchmark 7: Halted or suspended underlying assets

RG 000.79 An issuer should not allow new CFD positions to be opened, or existing positions to be varied or closed out, when trading on the underlying asset has been halted or suspended.

Explanation

RG 000.80 Trading in CFDs while underlying assets have been suspended increases both the risk of investors trading without all the requisite information and the potential for insider trading.

PDS disclosure

RG 000.81 If an issuer complies with the above requirements, the PDS should explain the issuer's approach to trading when underlying assets are suspended.

RG 000.82 If an issuer do not meet this benchmark, it should disclose this in the PDS and explain why this is so, as well as the additional risks that trading when underlying assets are suspended may pose for investors.

RG 000.83 In either case, the PDS should clearly explain the issuer's approach to trading when underlying assets are suspended. To provide a full explanation of this aspect of the product, an issuer should explain any discretions it retains as to how it manages positions over halted or suspended assets, and how it determines when and how it uses these discretions. This should include disclosure of any discretions the issuer retains to:

(a) change the margin requirement on a position;

(b) re-price a position; or

(c) close out a position.

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Benchmark 8: Margin calls

RG 000.84 An issuer should maintain and apply a written policy about its margining practices, which details:

(a) how the issuer will monitor client accounts, to ensure that it receives early notice of accounts likely to enter into margin call;

(b) what rights the issuer may exercise in relation to client accounts, including the right to make a margin call or close out positions; and

(c) when the issuer will exercise these rights, and what factors it will take into account in deciding whether to do so.

Regardless of the issuer's other margining practices, the policy should require the issuer to notify investors before closing out positions.

Explanation

RG 000.85 The potential for CFD investors to enter into margin call is reasonably high, as small movements in the price of the underlying asset may lead to large changes in the value of the CFD position.

RG 000.86 Investors need to understand when the issuer is likely to make a margin call, and the action the issuer is likely to take should it do so. In particular, it is important that investors be notified before the issuer closes out positions, so that they may take remedial action to prevent further losses.

RG 000.87 Additionally, maintaining robust margining practices is an important component of managing the issuer's exposure to risk from client positions, loss resulting from which may also have follow-on consequences for other investors.

PDS disclosure

RG 000.88 If an issuer complies with this benchmark, the PDS should explain the issuer's policy and margin call practices.

RG 000.89 If an issuer does not have such a policy in place, or one that does not incorporate all of the elements described above, it should disclose this in the PDS, and explain why this is so.

RG 000.90 In either case, to provide full and accurate information about this aspect of CFD trading, the PDS should clearly state that trading in CFDs involves the risk of losing substantially more than the initial investment. This will ensure the issuer meets its obligation to include in the PDS information about the significant risks associated with the product: s1013D(1)(c).

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Advertising

RG 000.91 A prominent warning should be included in advertising material, explaining that trading in CFDs involves the risk of losing substantially more than the initial investment, and that CFD investors do not own or have any rights to underlying assets (e.g. the right to receive dividend payments). If headline claims are not qualified by a sufficiently prominent warning, the advertisement can potentially create a misleading impression.

Benchmark 9: Fees and costs

RG 000.92 An issuer must clearly disclose all fees and costs. The PDS should have a section entitled 'Fees and costs', which must be clearly identifiable from the PDS table of contents. This section should include the information in Table 3.

Table 3: PDS disclosure of fees and costs relating to CFDs

Fees relating to opening and operating a CFD account	This should include, where relevant, the following information: • fees for opening, closing and keeping open an account; • fees for depositing and withdrawing money or other collateral into an account; • fees for converting money from one currency into another; • data fees (i.e. ASX fees and other data fees charged by other exchanges, news fees) and software fees; • additional phone service fees (e.g. fees charged for SMS notification, and/or for placing trades by phone); and • interest charged on the account (e.g. penalty interest charges, interest on credit and debit balances).
Fees relating to CFD trading	This should include, where relevant, the following information: • rates of commissions charged by the issuer on trades; • adviser service fees (as defined in Sch 10 of the Corporations Regulations); • the issuer's buy–sell spread (as defined in Sch 10 of the Corporations Regulations); • interest charged on positions left open overnight; and • any fees for special order types or other additional trading fees.

RG 000.93 An issuer should also ensure it notes any fees not specified in the categories described above (e.g. administration fees).

RG 000.94 Fee disclosure should be supported by a worked example of fees that would be charged to an investor upon:

(a) opening an account;

(b) making a trade;

(c) closing a trade; and

(d) withdrawing any profit.

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Explanation

RG 000.95 One of the key PDS content requirements is to include information about the cost of the product: s1013D(1)(d). In order for this to be clear, concise and effective, fee and cost disclosure should be set out in a way that easily allows potential investors to understand when fees and costs will apply (e.g. by grouping fees according to the stage of the investment that they are charged, including a worked example).

PDS disclosure

RG 000.96 To comply with this benchmark, the PDS must contain all of the required information, set out in the format described in RG 000.92–RG 000.94.

RG 000.97 If an issuer does not disclose some or all of its fees and costs in that format, it should explain why.

RG 000.98 An issuer should also include details about any discretions it has to change fees and how investors will be notified of any changes.

Note: Under s1017B, an issuer must provide product holders with at least 30 days notice before any increase in fees and costs.

RG 000.99 To provide a full explanation of the fees and costs of the products for the purposes of s1013D(1)(d), an issuer should explain whether its pricing of CFDs is derived by direct reference to the market price of the underlying asset, or whether it determines prices by reference to some other means. The issuer should explain the factors that will impact on any divergence of the prices it offers from those in the underlying market (e.g. volatility or illiquidity in the underlying market, or the issuer's own hedging costs).

Note: An issuer that operates a market maker model, where investors are 'price takers', will particularly need to explain how its prices are derived—see RG 000.26 for a discussion of the business models commonly operated by OTC CFD issuers.

Summary of disclosure benchmarks

RG 000.100 The benchmarks and their 'if not, why not' disclosure requirements are summarised in Table 4 below.

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Table 4: Disclosing against the benchmarks

	Benchmark	Disclosure
1	**Client suitability**	If an issuer complies with this benchmark, it should explain in the PDS: • that trading in CFDs is not suitable for all investors; and • how the issuer's client suitability policy operates in practice. If an issuer does not have such a policy in place, or one that does not incorporate all of the elements described in RG 000.39, it should disclose this in the PDS, and explain why this is so.
2	**Opening collateral**	If an issuer complies with this benchmark, the PDS should explain the types of assets the issuer will accept as opening collateral. If an issuer accepts non-cash assets as opening collateral, the PDS should explain why the issuer does so and the additional risks that using non-cash assets as opening collateral may pose for the investor
3	**Counterparty risk—Hedging**	If an issuer complies with this benchmark, the PDS should provide the following explanations: • a broad overview of the nature of hedging activity the issuer undertakes to mitigate counterparty risk, and the probability of the hedges not meeting the issuer's exposure to client positions; and • details about where investors can find the issuer's more detailed policy on the activities it undertakes to mitigate counterparty risk. If an issuer does not meet this benchmark, including because it relies on one or two hedging counterparties only, it should disclose this in the PDS and explain why this is so. In either case, the PDS should provide a clear explanation of the counterparty risk associated with OTC CFDs, including that, if the issuer defaults on its obligations, investors may become unsecured creditors in an administration or liquidation.
4	**Counterparty risk—Capital**	If an issuer complies with this benchmark, the PDS explain how the issuer's policy operates in practice. If an issuer does not comply, it should explain why and what alternative strategies it has in place to ensure it has the financial capacity to manage counterparty risk. In either case, the PDS should either include financial statements as attachment to the document, or inform prospective investors where they can locate them.
5	**Counterparty risk—Liquidity**	If an issuer complies with this benchmark, the PDS should explain how the issuer's policy operates in practice. If an issuer does not comply, it should explain why and what alternative strategies it has in place to ensure it has the financial resources to meet its liabilities and minimise the counterparty risk exposure of its investors.

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6	**Client money**	If issuers comply with this benchmark, the PDS should clearly: • describe the issuer's client money policy, including how the issuer deals with client money and when, and on what basis, it makes withdrawals from client money; and • explain that the issuer does not rely on funds deposited by one client to meet the margin or settlement requirements of another client . If an issuer does not have such a policy in place, or one that does not incorporate all of the elements described above, it should disclose this in the PDS, and explain why this is so, and any additional risks that this may pose for the investor. In either case, the PDS should explain the counterparty risk associated with using client money for derivatives.
7	**Halted or suspended underlying assets**	If an issuer complies with the benchmark, the PDS should explain the issuer's approach to trading when underlying assets are suspended. If an issuer does not meet this benchmark, it should disclose this in the PDS, and explain why this is so, and the additional risks that trading when underlying assets are suspended may pose for the investor.
8	**Margin calls**	If an issuer complies with this benchmark, the PDS should explain the issuer's policy and margin call practices. If an issuer does not have such a policy in place, or one that does not incorporate all of the required elements, it should disclose this in the PDS, and explain why this is so. In either case, the PDS should clearly state that trading in CFDs involves the risk of losing substantially more than the initial investment.
9	**Fees and costs**	To be compliant with this benchmark, issuers must set out all of the required information in the format described in RG 000.92–RG 000.94. If issuers do not disclose some or all of their fees and charges in that format, it should explain why.

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C Implementing the disclosure benchmarks

Key points

An issuer of OTC CFD products should use the benchmarks in Section B on an 'if not, why not' basis in meeting its disclosure obligations to investors: see RG 000.20–RG 000.25.

We expect issuers to comply with these disclosure requirements from 1 June 2011. We also expect issuers to provide existing investors with updated disclosure against the benchmarks by 1 June 2011: see RG 000.101–RG 000.102.

The benchmarks also reflect information that is material to the purposes of the issuer's obligations to provide ongoing disclosure to investors. We encourage issuers to communicate this information to investors in the most effective way possible (e.g. via the issuer's website and regular reports): see RG 000.113–RG 000.122.

Providing upfront and ongoing disclosure

RG 000.101 Our approach to additional and improved disclosure applies to both existing and new issues of OTC CFD products: see Table 5. It is based on our view that the inherent risks for investors in OTC CFDs mean that information about these risks is required in both upfront and ongoing disclosures.

Table 5: Implementing the disclosure benchmarks

Updating existing investors	By 1 June 2011, an issuer should address the benchmarks on an 'if not, why not' basis in updated disclosure and bring it directly to the attention of existing investors: see RG 000.103–RG 000.104.
Upfront disclosure for new investors	All new PDSs issued on or after 1 June 2011 should disclose against the benchmarks on an 'if not, why not' basis: see RG 000.105–RG 000.112. If there are material changes to the issuer's performance against the benchmarks while the PDS is current, the issuer will generally need to issue a new or supplementary PDS. The issuer should also communicate the information to existing investors who will not receive the PDS: RG 000.119–RG 000.120.

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Ongoing disclosures	If there are any material changes to the issuer's performance against the benchmarks, the issuer should deal with this in ongoing disclosures. We encourage issuers to communicate this information to investors as soon as practical by the most effective means possible (e.g. by updates on the issuer's website). In the interests of ensuring that existing investors are well informed, an issuer may also choose to provide regular updates on its compliance with the benchmarks in other materials (e.g. monthly or quarterly fund updates). We recommend an issuer update investors at least every six months. Note: However, we do not regard providing these updates as relieving an issuer of its other disclosure requirements.

RG 000.102 We will review updated investor disclosures in this industry sector in the period from 1 June 2011 to 31 August 2011 to check that this benchmarking information is adequately disclosed to investors on an 'if not, why not' basis.

Updating existing investors

RG 000.103 The first information that an issuer will provide to existing investors, in response to the benchmarks and the issuer's performance against them, will be after they have invested. By 1 June 2011, we expect an issuer to have provided existing investors with updated disclosure addressing each of the benchmarks in Section B on an 'if not, why not' basis.

RG 000.104 For example, this could be on the issuer's website (if used to regularly update investors), or through another regular report to investors (e.g. a quarterly report). Another alternative would be to issue a supplementary PDS and send a copy to existing investors, or publish it on the website and notify investors that it is available and how to access it.

Upfront disclosure

RG 000.105 From 1 June 2011, a new PDS for an issue to retail investors should address the benchmarks in Section B on an 'if not, why not' basis. As described in RG 000.20, this means that it should state that the issuer either:

(a) meets the benchmark (including how it meets the benchmark, where appropriate); or

(b) does not meet the benchmark and explain how and why the issuer deals with the business factor or issue underlying the benchmark in another way.

RG 000.106 A PDS should contain a clear and prominent disclosure of the key features of the investment and its risks. This disclosure should be in the first few pages

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of the PDS, and should be set out in a section that is clearly identifiable in the document and easily locatable in the table of contents.

RG 000.107 We expect the PDS for to explain in a clear, concise and effective way:

(a) the issuer's business and pricing models; and

(b) the nature of trading in CFDs (i.e. that taking a CFD position does not provide any interests or rights in the underlying assets, that a CFD is a leveraged product and the potential for entering into margin call is high).

The role of upfront disclosure

RG 000.108 The Corporations Act requires disclosure in the form of a PDS for an issue of OTC CFDs to retail investors. The PDS must:

(a) make specific disclosures, including about the significant risks associated with holding the product (s1013D); and

(b) include all other information that might reasonably be expected to have a material influence on the decision of a reasonable person (when investing as a retail investor) about whether or not to invest in CFDs (s1013E).

RG 000.109 Our benchmarks relate to matters that in any event must be disclosed under s1013D–1013E. Issues relating to client suitability, counterparty risk, collateral, trading practices, margin calls, and fees and costs, are all matters that might reasonably be expected to have a material influence on the decision of a retail investor about whether or not to invest in the product.

RG 000.110 We expect an issuer to comply with these benchmarks or explain why they do not. In addition, we consider that s1013D–1013E require:

(a) disclosure of these benchmarks and how they have been complied with;

(b) a statement that the issuer will continue to comply with these benchmarks and if not, why not; and

(c) in circumstances where there is non-compliance with these benchmarks, disclosure of the extent of non-compliance and the reason for non-compliance. In some circumstances non-compliance with these benchmarks is a risk that should be disclosed prominently.

Note: A PDS should address the benchmarks in Section B prominently and in one place (e.g. in the first few pages of the PDS either by a separate section or a clear and well-referenced table).

RG 000.111 We will consider exercising our stop-order powers under s1020E if we think there is material non-disclosure or misleading disclosure. We believe that disclosure of compliance with these benchmarks upfront in a PDS promotes compliance with the requirement that PDSs should be worded in a clear,

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concise and effective manner. It encourages comparability and uniformity of financial measures, and highlights issues which ASIC and industry experts consider crucial to making an investment decision.

RG 000.112 Experience suggests that clear, concise and effective PDS disclosure requires simple and straightforward disclosure of the issuer's business model. The issuer should use consumer-friendly tools as much as possible in disclosing key features and risks, including tables, diagrams and other comparative features.

Ongoing disclosures

Effective ongoing disclosure

RG 000.113 Where there have been any material changes to an issuer's performance against the benchmarks, including against the issuer's alternative approach to addressing the underlying business issue of the benchmarks, the issuer should explain these in ongoing disclosures.

RG 000.114 An issuer makes a number of statements in the PDS about the benefits of investment in its product. These 'promises' are part of the basis on which investors decide to invest their money and they should be given the opportunity to monitor the issuer's performance against these promises.

RG 000.115 Good ongoing disclosure therefore plays an important role in helping investors monitor their investment, evaluate its performance and decide if and when to increase or exit their investment (provided exit mechanisms exist).

RG 000.116 An issuer has a number of obligations to make ongoing disclosures to investors under the Corporations Act: see RG 000.118. Apart from these legal requirements, we encourage issuers to use the most efficient and effective methods to communicate ongoing disclosure to investors. We consider that best practice is for an issuer to give information directly to members or make it easily accessible (e.g. by updates on the issuer's website), even where the information is also lodged with ASIC.

RG 000.117 Investors should be informed how the issuer intends to make ongoing disclosures available to investors. For example, an issuer may choose to make ongoing disclosure generally available to retail investors in monthly or quarterly fund updates.

Note: On occasion, more formal communication (such as a supplementary PDS or s1017B notice) may be required in addition to these other methods of communication: see RG 000.118.

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The legal framework for ongoing disclosure

RG 000.118 An issuer of CFDs has obligations to provide ongoing disclosure to investors under the Corporations Act, including:

(a) issuing a supplementary PDS if there are certain material changes to information in a current PDS; and

(b) disclosure of material changes and significant events (s1017B).

Supplementary PDSs

RG 000.119 The benchmarks relate to information required in a PDS under the Corporations Act. A PDS must be given to prospective investors in various circumstances: s1012A–1012C. The information in a PDS must be up-to-date at the time it is given: s1012J. If there are material changes to an issuer's performance against the benchmarks, a new or supplementary PDS may need to be released.

Note: Class Order [CO 03/237] *Updated information in product disclosure statements* provides an exemption for updated information that is not materially adverse and which is made available.

RG 000.120 We consider that it is best practice to also make the information in a new or supplementary PDS available to existing investors (e.g. in a regular investor update or on the website).

Notifications of material changes and significant events

RG 000.121 An issuer must give investors notice under s1017B of any material change to a matter, or a significant event that affects a matter, that would have been required to be specified in a PDS.

RG 000.122 In our view, diversions from the benchmarks are material issues that should be covered in notifications to investors under s1017B. When such changes or events are adverse to investors, notifications generally need to be provided as soon as practical and, in any event, within three months.

Note: If the change is an increase to fees and costs, under s1017B, an issuer must provide product holders with at least 30 days notice before any increase.

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Appendix: Questions a potential investor should ask a CFD provider

These questions have been reproduced from ASIC's investor guide, *Thinking of trading contracts for difference (CFDs)?* We suggest a potential investor should ask a CFD provider these questions, or look for answers in the PDS.

- What is the financial position of the CFD provider?
- What is the CFD provider's policy on the use of client money?
- How does the CFD provider determine the prices of CFDs they offer?
- When processing CFD trades, does the CFD provider enter into a corresponding position in the market for the underlying asset?
- Can the CFD provider change or re-quote the price after you have already placed your order?
- If there is little or no trading going on in the underlying market for an asset, can you still trade CFDs over that asset?
- Does the CFD provider let you trade CFDs even if the underlying market is closed?

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Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B that authorises a person who carries out a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an Australian financial services licence
ASIC	Australian Securities and Investments Commission
ASIC Act	*Australian Securities and Investments Commission Act 2001* (Cth) including regulations made for the purposes of that Act
ASX	Australian Securities Exchange
CFD	Contract for difference
client money rules	Collectively, the rules contained in s981A–H of the Corporations Act.
[CO 03/237] (for example)	An ASIC class order (in this example numbered 03/237)
Corporations Act	*Corporations Act 2001* (Cth) including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
derivative	Has the meaning given in s761D of the Corporations Act
DMA	Direct market access Note: See RG 000.26(b) for further details
exchange-traded CFDs	CFDs traded via an exchange; in Australia, through the ASX
financial product	Generally a facility through which, or through the acquisition of which, a person does one or more of the following: • makes a financial investment (see s763B); • manages financial risk (see s763C); • makes non-cash payments (see s763D) Note: See Div 3 of Pt 7.1 of the Corporations Act for the exact definition.
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act
over-the-counter (OTC) product	A product traded directly between two parties, and not via an exchange

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Term	Meaning in this document
OTC CFD	A CFD traded as an OTC product, and not via an exchange
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition
reg 7.8.02 (for example)	A regulation in the Corporations Regulations (in this example, numbered 7.8.02)
REP 205 (for example)	An ASIC report (this one numbered 205)
retail client	A client as defined in s761G of the Corporations Act and Ch 7, Pt 7.1, Div 2 of the Corporations Regulations
retail investor	For the purposes of this guide, a retail client who trades in CFDs
RG 69	An ASIC regulatory guide (in this example, numbered 69)
s1017B (for example)	A section of the Corporations Act (in this example, numbered 1017B)
white label arrangement	The practice where one issuer utilises the infrastructure and platform of a second issuer but issues a product under its own brand

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Related information

Headnotes

benchmark disclosure, client money, collateral, counterparty risk, hedging, leveraged derivative product, liquidity, margin call, OTC CFDs, over-the-counter contracts for difference, PDS, Product Disclosure Statement, risk, underlying asset

Regulatory guides

RG 45 *Mortgage schemes—Improving disclosure for retail investors*

RG 46 *Unlisted property schemes—Improving disclosure for retail investors*

RG 69 *Debentures and unsecured notes: Improving disclosure for retail investors*

RG 166 *Licensing: Financial requirements*

RG 212 *Client money relating to dealing in OTC derivatives*

Legislation

ASIC Act

Corporations Act, Div 2 of Pt 7.1, 761D, 761G, 761GA, Div 2 of Pt 7.8, s981A, 981B, 981C, 981D, 981E, 981F, 981G, 981H, Div 2 of Pt 7.9, 1012A, 1012B, 1012C, 1012D, 1012E, 1012J, Div 3 of Pt 7.9, 1017B, Div 7 of Pt 7.9, 1020E

Corporations Regulations, Sch 10, reg 7.8.02

Reports

REP 205 *Contracts for difference and retail investors*

Investor guides

Thinking of trading contracts for difference (CFDs)?

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