CONSULTATION PAPER 348

Extension of the CFD product intervention order

October 2021

About this paper

This paper summarises ASIC's analysis to date of the impact of its product intervention order imposing conditions on the issue and distribution of contracts for difference to retail clients.

The paper also sets out ASIC's proposal to extend the order so that it will remain in force until it is revoked. The proposal is subject to consultation, further analysis of the effectiveness of the order and Ministerial approval.

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 18 October 2021 and is based on the legislation as at the date of issue.

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.

Contents

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 and report to the Minister on whether our product intervention order relating to contracts for difference should be extended. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account in our regulatory impact analysis: See Section E, 'Regulatory and financial impact'.

Making a submission

You may choose to remain anonymous or use an alias when making a submission. However, if you do remain anonymous we will not be able to contact you to discuss your submission should we need to.

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

Please refer to our privacy policy for more information on how we handle personal information, your rights to seek access to and correct personal information, and your right to complain about breaches of privacy by ASIC.

Comments should be sent by 29 November 2021 to:

Retail Complex Products and Investor Protection
Market Supervision
Australian Securities and Investments Commission
GPO Box 9827
Brisbane QLD 4001
email: Market.Supervision.OTC@asic.gov.au

What will happen next?

Stage 1	18 October 2021	ASIC consultation paper released
Stage 2	29 November 2021	Comments due on the consultation paper
Stage 3	Between November 2021 and 23 May 2022	Consider all feedback to our consultation paper Conduct further analysis of the impact of the product intervention order Prepare a report to the Minister on whether the product intervention order should be extended After considering the report, the Minister may give approval in writing for ASIC to extend the product intervention order If ASIC decides to extend the product intervention order, publish on our website, with the product intervention order, a notice of any decision to extend the product intervention order

A Overview

Key points

In October 2020, we made a product intervention order (CFD Order) imposing conditions on the issue and distribution of contracts for difference (CFDs) to retail clients after finding that CFDs have resulted in, and are likely to result in, significant detriment to retail clients.

The CFD Order will expire on 23 May 2022 unless it is extended.

Based on our analysis to date, we consider that the CFD Order has been effective in reducing the risk of significant detriment to retail clients.

Subject to this consultation, our further analysis of the impact of the CFD Order and obtaining the approval of the Minister, we propose to extend the CFD Order so that it will remain in force until it is revoked.

CFD product intervention order

1 On 22 October 2020, we made a product intervention order imposing conditions on the issue and distribution of CFDs to retail clients: ASIC Corporations (Product Intervention Order—Contracts for Difference) Instrument 2020/986.

2 CFDs are leveraged over-the-counter (OTC) derivatives that allow retail and wholesale clients to speculate on, or manage the risk of, changes in the value of an underlying asset. More than 60 Australian financial services (AFS) licensees issue CFDs to retail clients.

3 The CFD Order strengthened protections for retail clients trading CFDs after we found that CFDs have resulted in, and are likely to result in, significant detriment to retail clients, including:

(a) ASIC reviews in 2017 and 2020 found that most retail clients lose money trading CFDs; and

(b) the retail clients of a sample of 13 CFD issuers made a net loss of more than $774 million during a volatile five-week period in March and April 2020. In this period:

   (i) over 1.1 million CFD positions were terminated under margin close-out arrangements (compared with 9.3 million over the full year of 2018); and

   (ii) more than 15,000 retail client CFD trading accounts fell into negative balance owing a total of $10.9 million (compared with 41,000 accounts owing $33 million over the full year of 2018). Some debts were forgiven.

4 To reduce the risk of significant detriment to retail clients, from 29 March 2021 (Effective Date) the CFD Order conditions:

(a) restrict CFD leverage offered to retail clients to a maximum ratio of between 30:1 and 2:1, depending on the underlying asset class;

(b) standardise CFD issuers' margin close-out arrangements that act as a circuit breaker to close out one or more of a retail client's CFD positions before all or most of the client's investment is lost;

(c) protect against negative account balances by limiting a retail client's CFD losses to the funds in their CFD trading account; and

(d) prohibit giving or offering certain inducements to retail clients.

5 The CFD Order brought Australian practice into line with protections in force in comparable overseas markets. Wholesale clients are not affected by the CFD Order.

6 The CFD Order will remain in force until 23 May 2022 unless it is extended. We can extend the CFD Order for a period of time, or until it is revoked, by declaration in a legislative instrument with the approval of the Minister.

Assessing the impact of the CFD Order

Our approach to analysis

7 We have analysed data obtained from 59 CFD issuers for a 15-month period spanning the year before and the three months after the measures in the CFD Order took effect on 29 March 2021. The data includes details of client numbers, the gross notional value of CFDs issued and metrics relating to client outcomes such as profit- and loss-making accounts, margin close-outs and negative balances.

8 We will continue to gather and analyse quarterly data from licensed CFD issuers to assess the impact of the CFD Order and to inform the final decision on whether it should be extended.

Summary of analysis to date

9 We have observed significant improvements in a number of key metrics and indicators of retail client detriment from CFD trading in the three months following the implementation of the CFD Order (Effective Period).

Retail client losses reduced

10 In the Effective Period, we observed:

(a) a substantial reduction in retail clients' aggregate net losses—from a quarterly average of $372 million in the year prior to the CFD Order to $22 million in the Effective Period;

(b) there were 45% fewer loss-making retail client accounts in the Effective Period compared with the quarterly average in the year prior to the CFD Order, whereas the number of profit-making retail client accounts reduced by only 4% across the same period; and

(c) reductions in aggregate and average losses made by loss-making retail client accounts and aggregate and average profits made by profit-making retail client accounts.

Parity between profit-making and loss-making retail client accounts

11 The proportion of profit-making and loss-making retail client accounts was evenly split at 50% in the Effective Period, compared with a quarterly average of 36% profit-making accounts and 64% loss-making accounts in the four quarters prior to the Effective Date.

12 By contrast, the proportion of profit-making and loss-making wholesale client accounts in the Effective Period remained relatively stable at 37% and 63% respectively. The CFD Order does not apply to CFDs issued to wholesale clients.

Active retail client accounts decreased

13 The number of active retail client accounts decreased 29% to 357,841 in the Effective Period from 504,905 in the prior quarter, largely due to a declining number of foreign retail clients trading CFDs with AFS licensed CFD issuers.

Retail client CFD positions reduced

14 With the introduction of leverage ratio limits, the size of retail clients' new CFD exposures reduced. The gross notional value of CFDs issued to retail clients in the Effective Period reduced 75% to $659 billion from $2.7 trillion in the prior quarter and was 86% lower than the $4.8 trillion in the quarter to 30 September 2020. We saw similar percentage reductions in the average gross notional value of CFDs issued per active retail client account.

Margin close-outs down 85% for retail clients

15 Margin close-outs were reduced by 85% from a quarterly average of 117,445 instances in the four quarters prior to the Effective Date to 17,605 in the Effective Period. The proportion of active retail client accounts experiencing at least one margin close-out fell from more than one in four active retail client accounts in the quarter to 30 June 2020 to less than one in 20 active retail client accounts in the Effective Period.

Negative balance instances reduced tenfold for retail clients

16 The negative balance protection measure in the CFD Order applies to CFDs issued to retail clients on or after the Effective Date. A retail client may yet incur liabilities from CFDs issued before the Effective Date that exceed the funds in their CFD trading account, resulting in a negative balance.

17 Instances of retail client accounts entering negative balance fell to 2,131 (0.6 instances per 100 active retail client accounts) in the Effective Period, a tenfold decrease compared with instances in the quarter to 30 June 2020. The retail client accounts that had a negative balance lost all of the funds in their CFD trading account—and potentially more if a CFD position was opened before the Effective Date.

Inducements to retail clients drop, redirected to wholesale clients

18 As anticipated, the prohibition against giving or offering certain inducements in the CFD Order resulted in the value of benefits given to retail clients falling substantially in the Effective Period. We noted a significant increase in benefits provided to wholesale clients after the Effective Date.

Regression analysis

19 Our regression analysis, which controlled for market volatility, found statistically significant, negative correlations between the CFD Order being in place and the following measures of consumer detriment:

(a) the proportion of client accounts experiencing a margin close-out; and

(b) the proportion of loss-making client accounts.

20 These results give us a high degree of confidence that the CFD Order was responsible for the reductions in these measures of retail client detriment, rather than external market factors.

Regulatory compliance costs lower than anticipated

21 Regulatory compliance costs of the CFD Order were considerably lower than expected. Data gathered from licensed CFD issuers indicates implementation costs of $4.7 million and annual ongoing compliance costs of $3.6 million, which are around 76% and 59% lower respectively than our estimates before making the CFD Order.

Proposal summary

22 We propose to extend the CFD Order so that it will remain in force until it is revoked or sunsets on 1 April 2031. Our proposal is subject to our consideration of the feedback to this consultation, our further analysis of the impact of the CFD Order and obtaining the approval of the Minister.

23 Based on our analysis to date, we consider that the CFD Order has been effective in reducing the risk of significant detriment to retail clients resulting from CFDs and so should remain in force.

24 Further, our analysis of the impact of the CFD Order to date aligns with the experiences of similar regulatory measures in other jurisdictions, including the United Kingdom and the European Union, and with academic research assessing the impact of CFD leverage on retail client outcomes.

25 We do not believe a temporary extension of the CFD Order is appropriate. Given the reduction in retail client detriment we have observed, it is likely that, following any temporary extension of the Order, we would then consult again on whether the Order should be extended further. This would risk creating unnecessary regulatory uncertainty and additional regulatory burden on CFD issuers and retail clients.

B CFD product intervention order

Key points

CFDs are leveraged OTC derivatives that allow clients to speculate on the change in the value of an underlying asset. 'Margin FX' is a popular CFD that references currency pairs.

From 29 March 2021, our product intervention order imposed conditions on the issue and distribution of CFDs to retail clients, including leverage ratio limits.

We found that CFDs have resulted in, and are likely to result in, significant detriment to retail clients.

CFDs in Australia

26 CFDs are leveraged OTC derivatives that allow retail and wholesale clients to speculate on, or manage the risk of, changes in the value of an underlying asset. This can include currency pairs (such as AUD/USD) which are also known as 'margin foreign exchange' or 'margin FX' and are the most commonly traded type of CFD in Australia. Other underlying assets include equity indices, individual equities, commodities, crypto-assets (e.g. Bitcoin), interest rate instruments, futures and options.

27 Clients can open a 'long' or 'short' CFD position. A long position means entering into a CFD contract with the expectation that the underlying asset will increase in value. A short position means entering into a CFD contract with the expectation that the underlying asset will decrease in value.

28 In both cases, when a client closes their CFD position, their profit or loss is the difference between the closing value and the opening value of their CFD position (including any fees and other costs such as interest charges on positions held overnight).

29 CFDs are typically leveraged, meaning that a client may use a small initial investment (known as 'margin') to gain exposure to an asset for a proportion of that asset's value. For example, a retail client with initial margin of $500 can open a CFD position with a $10,000 economic exposure to the price of gold (5% margin requirement or a 20:1 leverage ratio).

30 More than 60 AFS licensees issue CFDs to retail clients.

Product intervention order

31 On 22 August 2019, we released Consultation Paper 322 *Product intervention: OTC binary options and CFDs* (CP 322) seeking feedback on proposals to use our product intervention power to address significant detriment to retail clients resulting from OTC binary options and CFDs. CP 322 attracted over 400 responses from consumers, consumer groups, product issuers, industry bodies and other stakeholders.

Note: The submissions to CP 322 are publicly available on our website, excluding confidential submissions. *Public notice—Product intervention order in relation to contracts for difference* (PDF 181 KB) includes a summary of respondents' views.

32 On 22 October 2020, we made the CFD Order, which imposes conditions on the issue and distribution of CFDs to retail clients.

33 From 29 March 2021, a CFD issuer must not issue a CFD to a retail client, and a person who carries on a business of dealing in CFDs must not deal in a CFD in relation to a retail client, except in accordance with the conditions specified in the CFD Order.

34 A summary of the substantive conditions in the CFD Order are set out in Table 1.

Table 1: Summary of conditions specified in the CFD Order

Condition	Summary of condition
Leverage ratio limits (See subsections 7(1) and 7(2) of the CFD Order)	Minimum initial margin requirements on CFDs issued to retail clients are applied such that leverage ratios offered to retail clients do not exceed the following limits at the time of issue: • 30:1 for CFDs over an exchange rate for a major currency pair • 20:1 for CFDs over an exchange rate for a minor currency pair, gold or a major stock market index • 10:1 for CFDs over commodities (excluding gold) or a minor stock market index • 2:1 for CFDs over crypto-assets, and • 5:1 for CFDs over shares or other underlying assets

Condition	Summary of condition
Margin close-out protection (See subsections 7(3) and 7(4) of the CFD Order)	The terms of a CFD offered to a retail client must provide that, if at any time the net equity of the retail client's CFD trading account is less than 50% of the total initial margin or total margin required for all of their open CFD positions on that account (see definition of *aggregate close-out protection amount*), the CFD issuer must, as soon as market conditions allow, close out one or more open CFD positions held by the retail client until the net equity of the retail client's CFD trading account is equal to or greater than the aggregate close-out protection amount for the remaining open CFD positions or all of the CFD positions permitted to be terminated under this condition have been terminated
Negative balance protection (See subsection 7(5) of the CFD Order)	The terms of a CFD offered to a retail client must limit the retail client's losses on CFD positions to the funds in that retail client's CFD trading account
Prohibition on inducements (See section 6 of the CFD Order)	A person must not, in the course of carrying on a business, give or offer a gift, discount, rebate, trading credit or reward to a retail client or a prospective retail client as an inducement to open or fund a CFD trading account or trade CFDs However, the prohibition does not cover: (a) information services or educational or research tools, or (b) discounts of fees and costs (including volume-based discounts) that are offered to all retail clients and prospective retail clients

35 Professional, sophisticated and other wholesale clients are not affected by the CFD Order.

36 A transition period of approximately five months, crossing the December and January period, allowed CFD issuers until 29 March 2021 to adjust their systems and practices to comply with the CFD Order. Amid public health orders and heightened market volatility at various points during the COVID-19 pandemic, this transition period set an appropriate balance between the objective of reducing consumer harm and the requirement for an orderly transition period for CFD issuers. The transition period also allowed time for retail clients to be notified of the CFD Order and consider the likely effect on their CFD trading strategies before the measures took effect.

37 The CFD Order will remain in force until 23 May 2022 unless it is extended.

38 We can extend the CFD Order for a period of time or until it is revoked by declaration in a legislative instrument with the approval of the Minister. In seeking approval from the Minister, we must provide a report to the Minister on whether the extension should be made. We must, before making a declaration, undertake the consultation that we consider to be appropriate and reasonably practicable to undertake. If we make a declaration to extend the CFD Order, we must publish the declaration on our website, together with the CFD Order.

Note: Regulatory Guide 272 *Product intervention power* (RG 272) provides an overview of our product intervention power, when and how we may exercise the power, and how a product intervention order is made.

Significant detriment to retail clients resulting from CFDs

39 We made the CFD Order after we found that CFDs have resulted in, and are likely to result in, significant detriment to retail clients.

40 We described the significant detriment to retail clients resulting from CFDs in *Public notice—Product intervention order in relation to contracts for difference* (Public Notice), including:

(a) ASIC reviews in 2017 and 2020 found that most retail clients lose money trading CFDs:

  (i) In 2017, CFD issuers reported to ASIC that approximately 97% of their clients were retail clients and that 63% of clients lost money trading 'margin FX' (a CFD with a currency pair as the underlying asset) over a 12-month period and 72% of clients lost money trading other CFDs over a 12-month period.

  (ii) Amid heightened market volatility during the COVID-19 pandemic, information provided by a sample of 13 CFD issuers for five weeks between 16 March 2020 and 19 April 2020 showed that the proportion of their retail clients' trading accounts that lost money trading CFDs each week ranged between 56.9% and 63.2%.

  Note: Together, the 13 CFD issuers in the sample had over 85% market share based on reported retail client money as at 28 February 2020.

(b) During that volatile five-week period in March and April 2020, the retail clients of the sample of 13 CFD issuers made a net loss of more than $774 million. During this period:

  (i) over 1.1 million CFD positions were terminated under margin close-out arrangements (compared with 9.3 million over the full year of 2018);

  (ii) more than 15,000 retail client CFD trading accounts fell into negative balance owing a total of $10.9 million (compared with 41,000 accounts owing $33 million over the full year of 2018). Some of the CFD issuers advised that they forgave some or all of the negative balance amounts owed to them.

Reducing the risk of detriment to retail clients

41 In the Public Notice, we described why the CFD order is an appropriate way of reducing the detriment to retail clients resulting from CFDs. In summary:

(a) the leverage ratio limits were expected to reduce the size and speed of retail clients' CFD losses by reducing CFD exposure and the sensitivity of CFDs to market volatility;

(b) margin close-out protection was expected to standardise a common risk management feature that acts as a circuit breaker to close out one or more of the open CFDs connected to a retail client's CFD trading account in circumstances where the retail client has lost a substantial proportion of the funds in that trading account;

(c) negative balance protection was expected to standardise a risk management feature offered by some CFD providers that protects retail clients by limiting their losses on CFD positions to the funds in their CFD trading account;

(d) the CFD Order prohibits offering or giving specified inducements to retail clients and prospective retail clients that encourage higher trading volumes and can distract them from the risks of trading CFDs, while not barring discounts of fees and costs that are offered to all retail clients and prospective retail clients;

(e) the expected benefits of the CFD Order to retail clients from reducing the risk of significant detriment resulting from CFDs outweighed the expected costs to retail clients (including reduced consumer choice and increased costs of using CFDs for hedging);

(f) the CFD Order was and remains consistent with regulatory measures in force in other jurisdictions (e.g. it is most closely aligned with regulatory measures in the United Kingdom and the European Union), which is expected to promote confident participation in the Australian financial system;

(g) the expected net benefits to retail clients from the CFD Order, and additional regulatory benefit from improved trust and confidence in the Australian financial system and economy over time, were expected to outweigh the expected significant impact to CFD issuers and other businesses dealing in CFDs, including to their revenue from dealing in CFDs in relation to retail clients and their costs of compliance with the CFD Order; and

(h) the CFD Order was not expected to have any material effect on underlying financial markets.

42 In addition to the CFD Order, our actions to address concerns about CFDs include:

(a) enforcement action to address misconduct—see, for example, Media Release 20-246MR *Federal Court imposes $75 million penalty on OTC derivative issuer AGM Markets and former authorised representatives OT Markets and Ozifin* (19 October 2020) and Media Release 21-120MR *Forex CT ordered to pay $20 million penalty and sole director disqualified, fined $400,000* (2 June 2021);

(b) public warning notices and other statements;

(c) surveillance projects and thematic reviews;

(d) stronger regulations; and

(e) extensive retail client education campaigns and guidance for CFD issuers.

C Assessing the impact of the CFD Order

Key points

ASIC has analysed data obtained from licensed CFD issuers for a 15-month period that spans the period before and after the measures in the CFD Order took effect.

Based on our analysis to date, we consider the data collected shows a substantial reduction in detriment to retail clients resulting from CFDs.

We will continue to collect data and assess the impact of the CFD Order.

Our assessment approach

Data collection

43 We obtained data from 59 AFS licensees who issued CFDs to retail clients in the year prior to the Effective Date (the period 1 April 2020 to 28 March 2021) or in the Effective Period (29 March 2021 to 30 June 2021).

44 The information CFD issuers were required to provide included details of client numbers, the gross notional exposure of CFDs issued and metrics on client outcomes such as profit- and loss-making accounts, margin close-outs and negative balances.

45 CFD issuers were required to provide all data for monthly or quarterly periods. Responses to specific items about client populations and client outcomes were typically required to be broken down across four categories:

(a) clients categorised by the licensee as retail clients resident, incorporated or carrying on business in Australia (Australian retail clients);

(b) clients categorised as retail clients that are not Australian retail clients (foreign retail clients);

(c) clients categorised as wholesale clients resident, incorporated or carrying on business in Australia (Australian wholesale clients); and

(d) clients categorised as wholesale clients who are not wholesale Australian clients (foreign wholesale clients).

46 To assess the impact of the CFD Order, we have compared data for the periods before and after the Effective Date. We have also compared data relating to retail clients' CFD trading and outcomes with data relating to wholesale clients who are not directly affected by the measures in the CFD Order.

Data review and assessment

47 We reviewed the data provided by each CFD issuer and raised queries where certain data appeared improbable or incorrect, leading to some revisions and resubmissions of data. We also analysed the data against other sources of information, including the retail client money reporting data provided by CFD issuers under the ASIC Client Money Reporting Rules 2017 and data gathered in our previous interactions with CFD issuers.

Ongoing assessment

48 We have required licensees to provide data for the second quarter of operation of the CFD Order (1 July 2021 – 30 September 2021). This will allow ASIC to continue to monitor the impact of the CFD Order.

Summary of analysis

Changes in client's profits and losses

49 The Public Notice described that the nature of the detriment to retail clients resulting from CFDs was primarily in the form of financial losses. The extent of the detriment to retail clients that ASIC found had resulted from CFDs was evidenced by the proportion of retail clients' trading accounts that lost money trading CFDs and the quantum of financial losses to retail clients.

50 In the quarter following implementation of the CFD Order, we have observed a reduction in:

(a) retail clients' aggregate net losses;

(b) the aggregate value of losses incurred by retail client accounts that are loss making in a quarter (retail loss-making accounts) and the aggregate value of profits made by retail client accounts that are profit making in a quarter (retail profit-making accounts);

(c) the average loss incurred by retail loss-making accounts and average profit made by retail profit-making accounts; and

(d) the proportion of retail loss-making accounts.

Reduction in aggregate and average retail client losses and profits

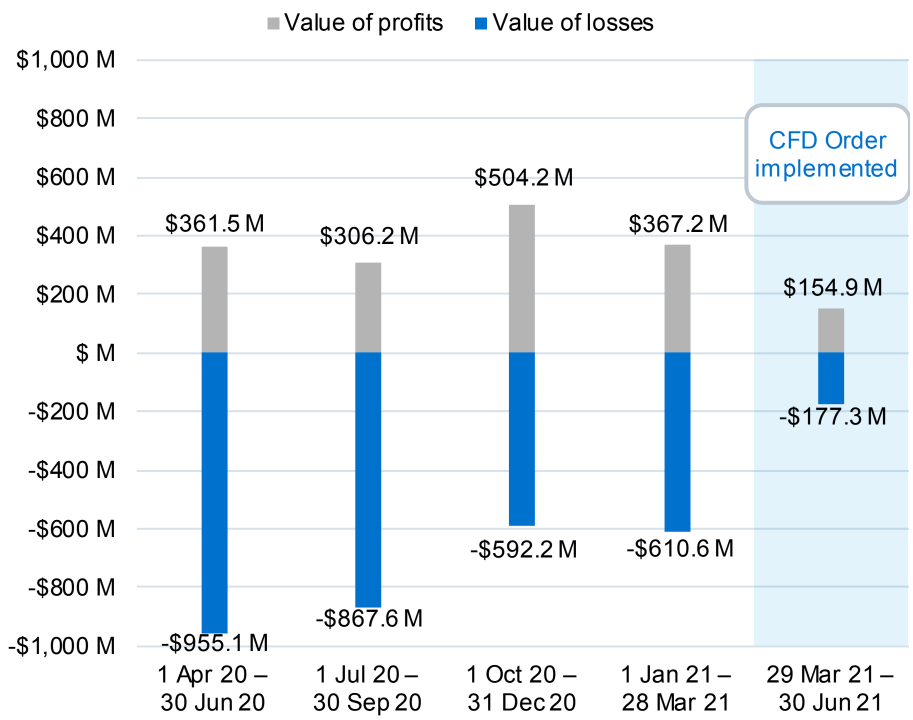
51 Retail clients made net losses of $22 million from CFD trading in the Effective Period—a 94% reduction compared with the quarterly average of $377 million net losses in the year prior to the Effective Date.

52 Retail loss-making accounts incurred total losses of $756 million on average each quarter in the year prior to the CFD Order.

53 In the Effective Period, the aggregate loss incurred by retail loss-making accounts was $177 million—a 77% decrease compared with the quarterly average in the year prior to the Effective Date (see Figure 1).

54 There has also been a reduction in the total profits made by retail profit-making accounts. Retail profit-making accounts made total profits of $385 million on average each quarter in the year prior to the CFD Order. In the Effective Period, total profits made by retail profit-making accounts were $155 million. This represents a 60% decrease in total profits compared with the quarterly average in the year prior to the CFD Order.

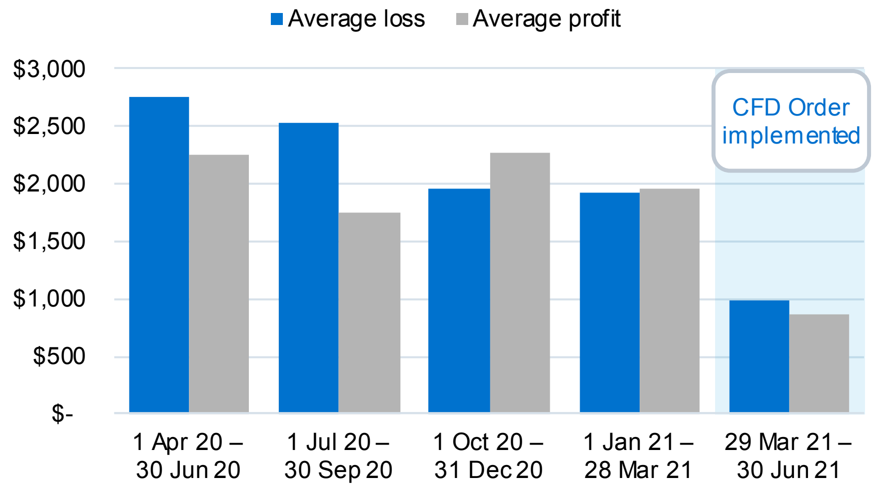
Figure 1: Total profits and losses of retail client accounts



Note: See Table 5 in the appendix for the data in this figure (accessible version).

55 In addition to a reduction in retail clients' aggregate profits and losses, the average profit of retail profit-making accounts and average quarterly loss of retail loss-making accounts decreased after the Effective Date. The average loss per retail loss-making account fell 50% from $1,962 in the quarter immediately prior to the CFD Order to $986 in the Effective Period. The average profit per retail profit-making account fell 62% from $2,276 to $867 across the same periods (see Figure 2).

Figure 2: Average profits and losses of active retail client accounts



Note: See Table 6 in the appendix for the data in this figure (accessible version).

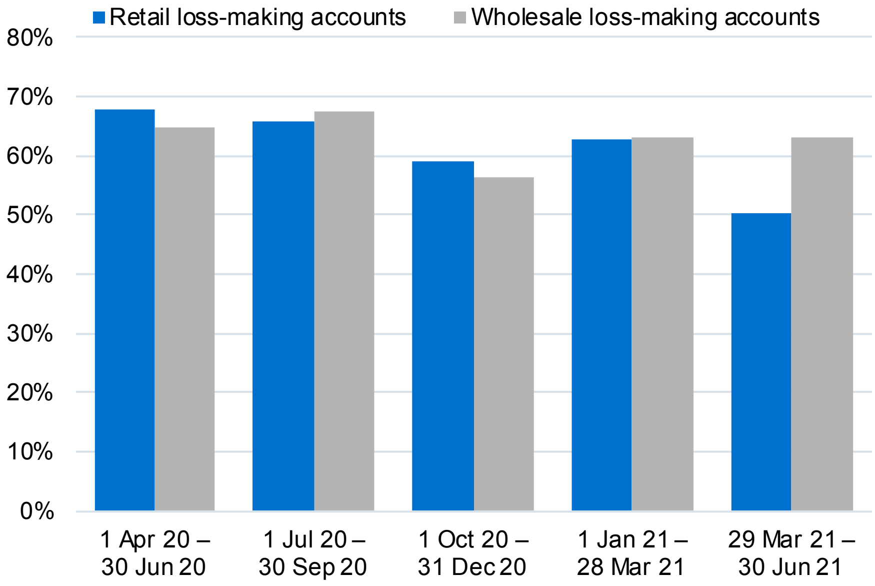
56 Looking across data provided by each CFD issuer, we observed a strong linear relationship between average profits of retail profit-making accounts and losses in retail loss-making accounts of a CFD issuer and the average gross notional value of CFDs issued by the CFD issuer to retail clients. (Further analysis of gross notional value and average gross notional value is set out in paragraphs 69–73.)

Reduction in the proportion of retail client loss-making accounts

57 In the Effective Period, the percentage of retail profit-making accounts and retail loss-making accounts was evenly split at 50%.

58 This compares with quarterly averages of 36% retail profit-making accounts and 64% retail loss-making accounts in the four quarters prior to the Effective Date.

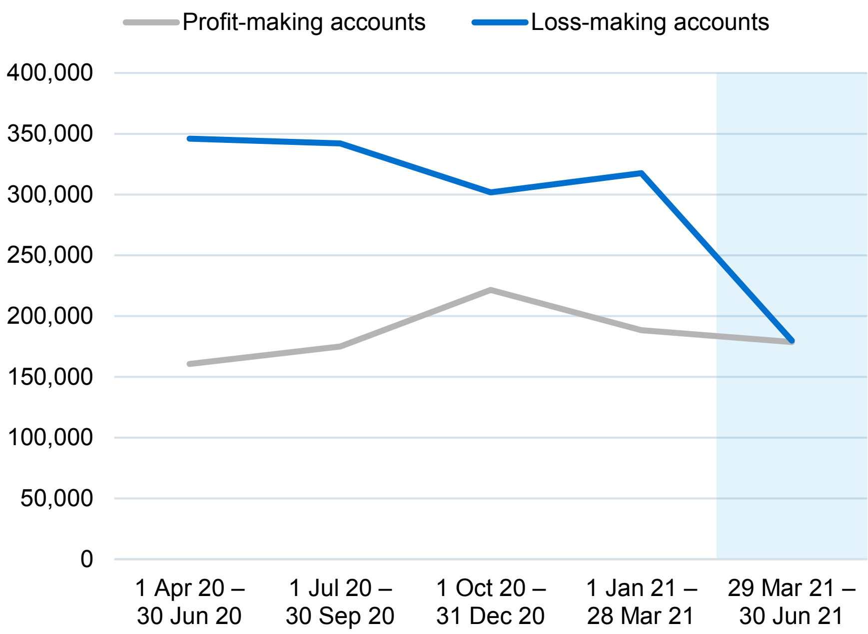
Figure 3: Percentage of loss-making accounts



Note: See Table 7 in the appendix for the data in this figure (accessible version).

59 The change in proportion of retail loss-making accounts to retail profit-making accounts is primarily driven by a substantial reduction in the number of retail loss-making accounts, with the number of retail profit-making accounts remaining fairly stable (see Figure 4).

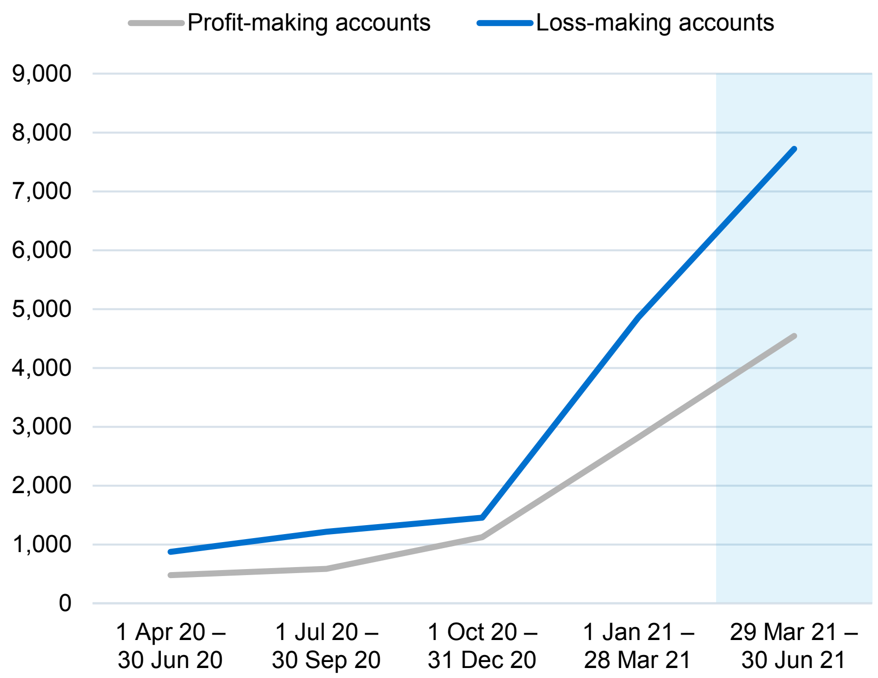
Figure 4: Changes in number of profit-making and loss-making retail client accounts



Note: See Table 8 in the appendix for the data in this figure (accessible version).

60 In contrast to retail client outcomes, the proportion of wholesale loss-making client accounts in the Effective Period remained relatively stable at 63% and wholesale profit-making accounts at 37% with 7,722 wholesale loss-making accounts and 4,453 wholesale profit-making accounts in the Effective Period. The CFD Order does not apply to CFDs issued to wholesale clients. These relative proportions remained stable despite the increase in the number of wholesale client accounts and a corresponding increase in both wholesale profit-making accounts and wholesale loss-making accounts (see Figure 5).

Figure 5: Changes in number of wholesale profit-making and wholesale loss-making client accounts



Note: See Table 9 in the appendix for the data in this figure (accessible version).

Changes to client demographics

61 There have been significant changes in the population of clients that CFDs are issued to:

(a) there has been an overall decline in the number of active retail client accounts;

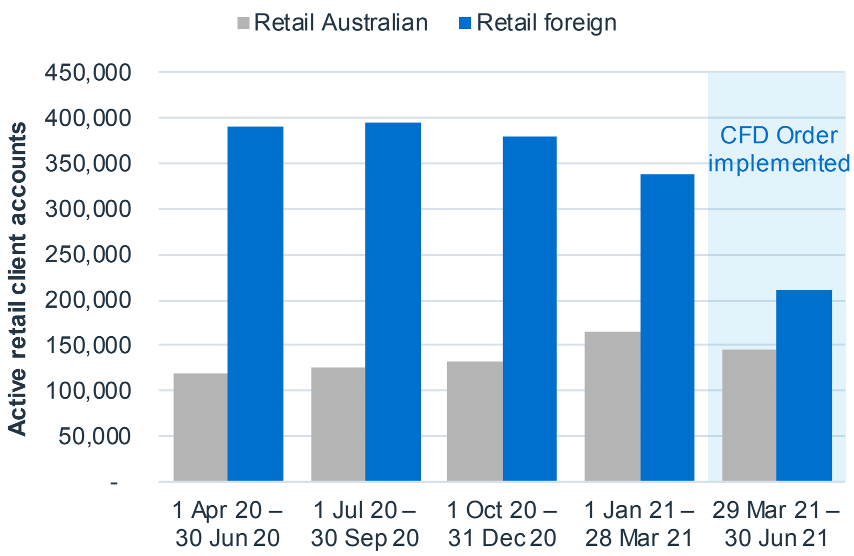
(b) the number and proportion of wholesale clients has increased from a low base.

Retail clients

62 The number of active retail client accounts decreased 29% to 357,841 in the Effective Period from 504,905 in the prior quarter, largely due to a declining

number of foreign retail clients trading CFDs with AFS-licensed CFD issuers.

Figure 6: Total active retail client accounts



Note: See Table 10 in the appendix for the data in this figure (accessible version).

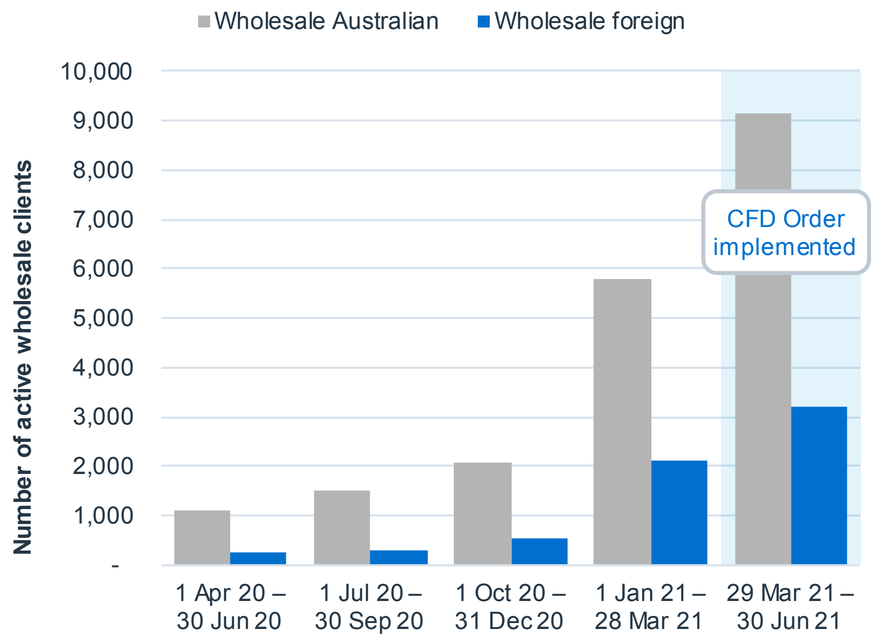
63 There was also a decline in retail client money holdings reported by CFD issuers. At 31 January 2021 retail client money held by CFD issuers owed to clients was $2.71 billion which decreased to $2.47 billion at 31 March 2021. Retail client money was $2.21 billion at 31 July 2021. Retail client money may be held for clients who are no longer active.

64 A targeted survey of 10 CFD issuers indicated that six of those CFD issuers had re-papered approximately 50,000 foreign retail clients to offshore subsidiaries from 28 February 2021 to 30 April 2021. Typically, the subsidiaries were incorporated and licensed in other jurisdictions where restrictions similar to the CFD Order do not apply.

Wholesale clients

65 Figure 7 shows that for the period 29 March 2021 – 30 June 2021 there were 12,328 active wholesale client accounts (9,128 active Australian wholesale client accounts and 3,200 active foreign wholesale client accounts). In the same period in 2020 there were 1,357 active wholesale client accounts (1,088 active Australian wholesale client accounts and 269 active foreign wholesale client accounts). Our surveillance work indicates that most of these new active wholesale client accounts were reclassified by CFD issuers from retail client accounts to wholesale client accounts, having the effect that the CFD Order and other consumer protections afforded to retail clients no longer apply to them.

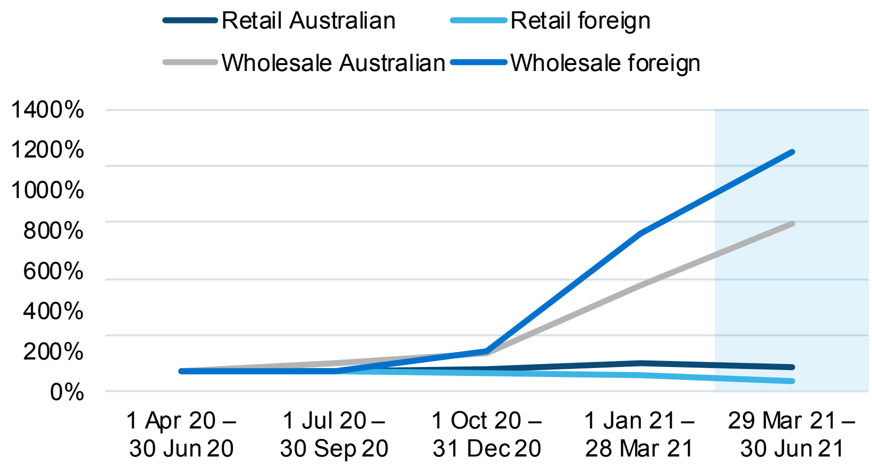
Figure 7: Total active wholesale client accounts



Note: See Table 11 in the appendix for the data in this figure (accessible version).

66 Figure 8 shows the relative changes in active client numbers since the quarter ending 30 June 2020. Active client numbers for each client population type are set at 100 for that period and all changes are relative to that period.

Figure 8: Changes in active client population types



Note: See Table 12 in the appendix for the data in this figure (accessible version).

Reduction in value of CFDs issued

67 In the Public Notice, we explained that the leverage ratio limits in the CFD Order would reduce CFD exposure and the sensitivity of CFDs to market volatility, which we expected to reduce the size and speed of retail clients' CFD losses.

68 For example, as a result of the CFD Order, the leverage offered by CFD issuers for CFDs over major currency pairs reduced from a typical leverage ratio of 500:1 to a maximum of 30:1. This reduced leverage allowed for a CFD exposure to a major currency pair that is 16.7 times smaller for a given amount of margin held in a retail client's CFD trading account. For CFDs over major stock market indices, typical leverage reduced by 10 times from 200:1 to a maximum of 20:1.

Gross notional value of CFDs issued

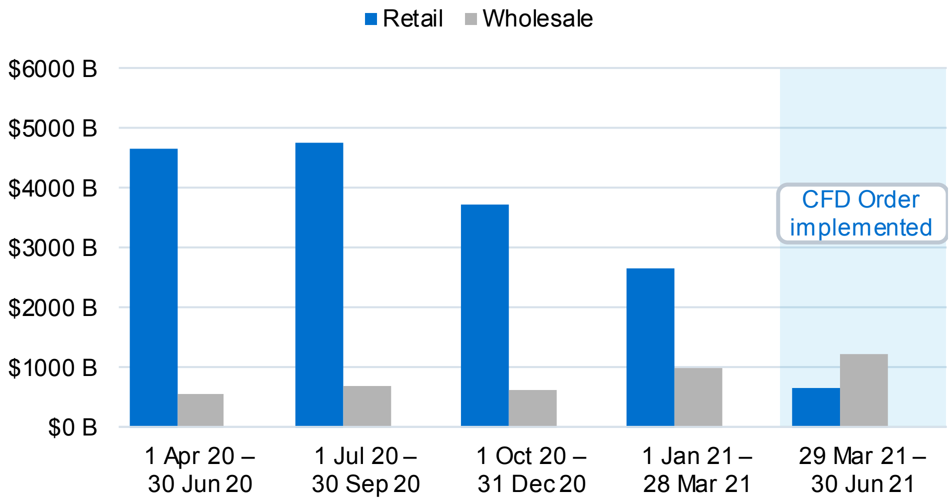
69 We obtained data from CFD issuers about the gross notional value of CFDs issued to clients before and after the Effective Date. The notional value of an individual CFD at issue is calculated as *contract size x issue price.* The gross notional value of CFDs issued in a period is the sum of the notional values of all CFDs issued to clients in that period.

70 With the introduction of leverage ratio limits, the gross notional value of CFDs issued to retail clients in the Effective Period reduced 75% to $659 billion from $2.7 trillion in the prior quarter and was 86% lower than the $4.8 trillion in the quarter to 30 September 2020.

71 There has also been a substantial increase in the gross notional value of all CFDs issued to wholesale clients. Issuance to wholesale clients in the Effective Period increased by 22% to $1.2 trillion gross notional value from $1 trillion in the prior quarter.

72 Overall, CFD issuance has declined from an average of $4.7 trillion per quarter prior to the Effective Date to $1.9 trillion.

Figure 9: Total gross notional value of issued CFDs by client type

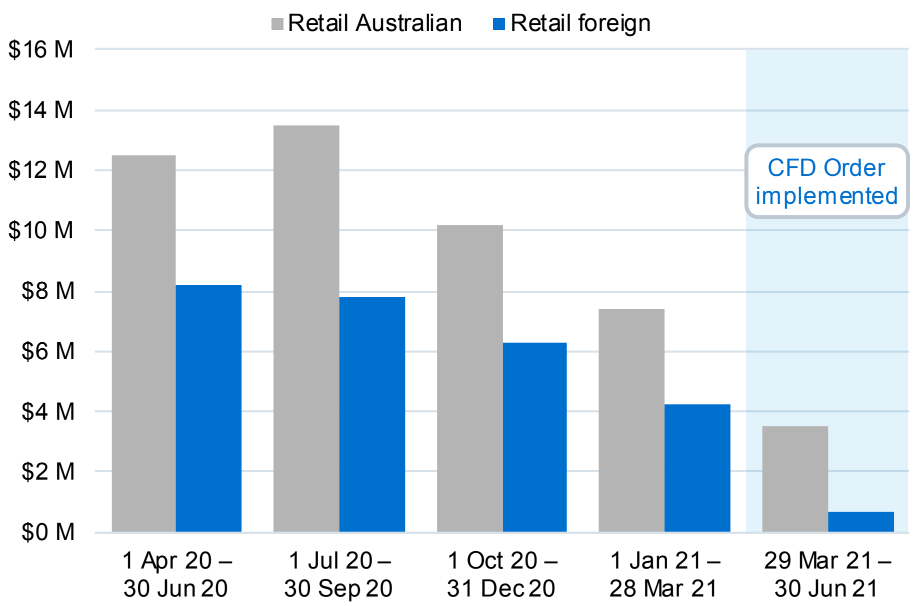


Note: See Table 13 in the appendix for the data in this figure (accessible version).

Average gross notional value of CFDs issued

73 Figure 10 shows that the average gross notional value of CFDs issued to each active retail client account has reduced significantly from an average of $7.7 million per active retail client in each quarter prior to the CFD Order to $1.8 million per active retail client in the Effective Period.

Figure 10: Average gross notional value of CFDs issued to active retail clients



Note: See Table 14 in the appendix for the data in this figure (accessible version).

Margin close-out

74 Even prior to the CFD Order, most CFD issuers set a ‘liquidation level’ at which one or more of a client’s open CFD positions were liquidated or ‘closed out’ by the CFD issuer if the retail client did not have enough money in their CFD trading account to cover adverse movements on their position or to respond to margin calls.

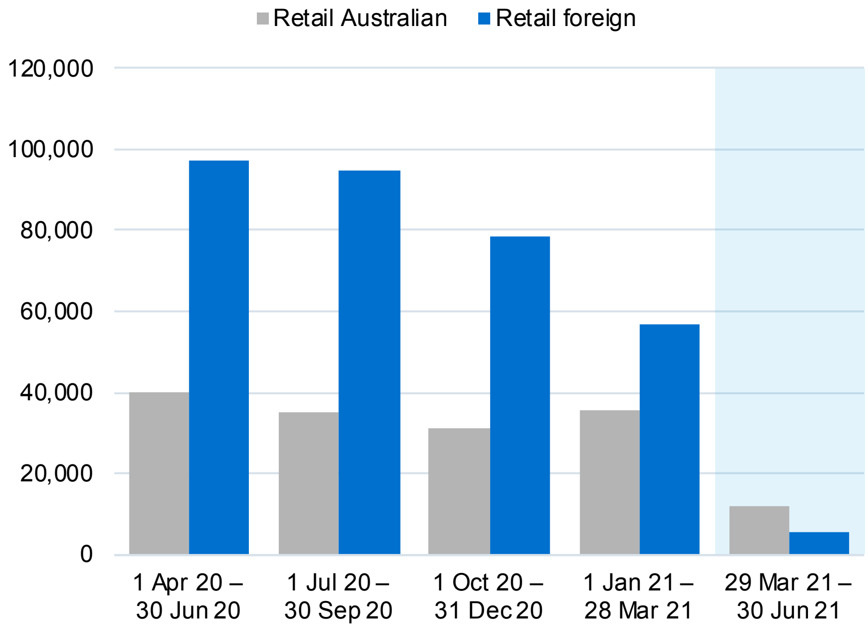
75 Many CFD issuers set the liquidation level at 50% of the total initial margin or variation margin required for the CFD positions on a client’s trading account. Retail clients who failed to ‘top up’ their account within the relatively short timeframe provided may have seen one or more of their CFD positions automatically closed out by the CFD issuer, crystallising losses.

76 For CFDs issued to retail clients after the Effective Date, the CFD Order standardised the liquidation level for margin close-out protection at 50% of the total initial margin or total margin required for all of the clients’ open CFD positions on the CFD trading account (Margin Close Out Protection).

77 Where a margin close-out occurs, it can be inferred from the liquidation level having been reached that the retail client holding the positions lost a significant proportion of their investment.

78 The number of retail accounts experiencing at least one margin close-out has reduced significantly for retail clients. These numbers only relate to margin close-outs at the instance of the CFD issuer and not any margin close-outs implemented by the client (e.g. a stop loss order).

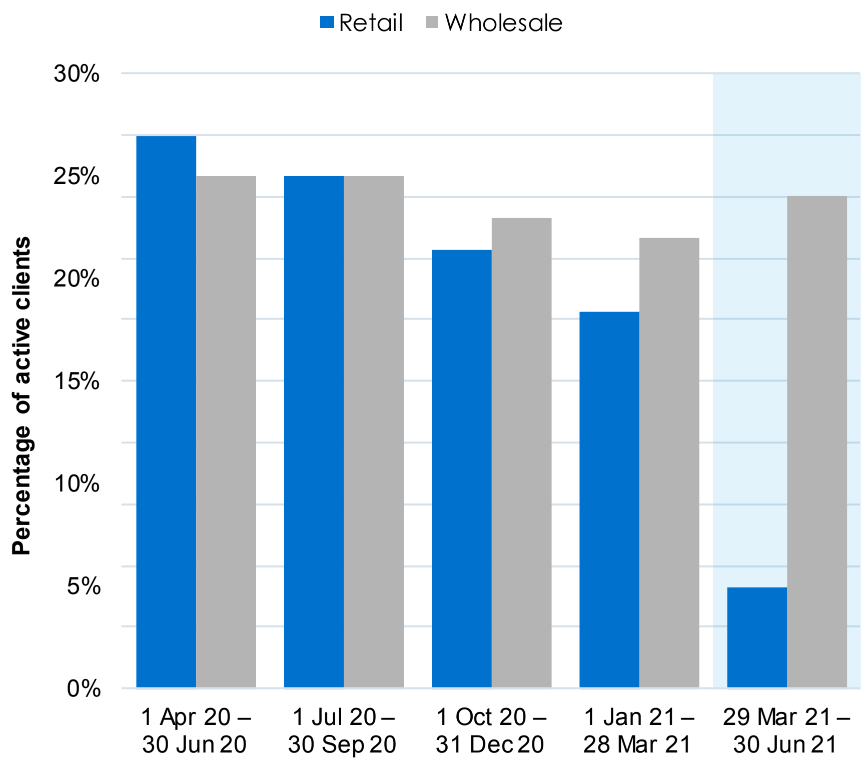
Figure 11: Retail client accounts experiencing at least one margin close-out



Note: See Table 15 in the appendix for the data in this figure (accessible version).

79 The percentage of client accounts experiencing at least one margin close-out in a quarter has also reduced significantly since the Effective Date. In the four quarters prior to the Effective Date, the proportion of active retail client accounts experiencing at least one margin close out was broadly consistent. However, this number was less than 1 in 20 active retail clients in the Effective Period.

Figure 12: Percentage of active client accounts experiencing at least one margin close-out



Note: See Table 16 in the appendix for the data in this figure (accessible version).

80 In contrast, the proportion of wholesale client accounts experiencing at least one margin close-out remains consistent over the periods.

Negative balances in CFD trading accounts

81 Clients trading CFDs can lose more than their initial investment. Although a retail client only provides margin that is a fraction of the notional value of a CFD position, they are entitled to the same gains and losses as if they paid 100% of the notional value.

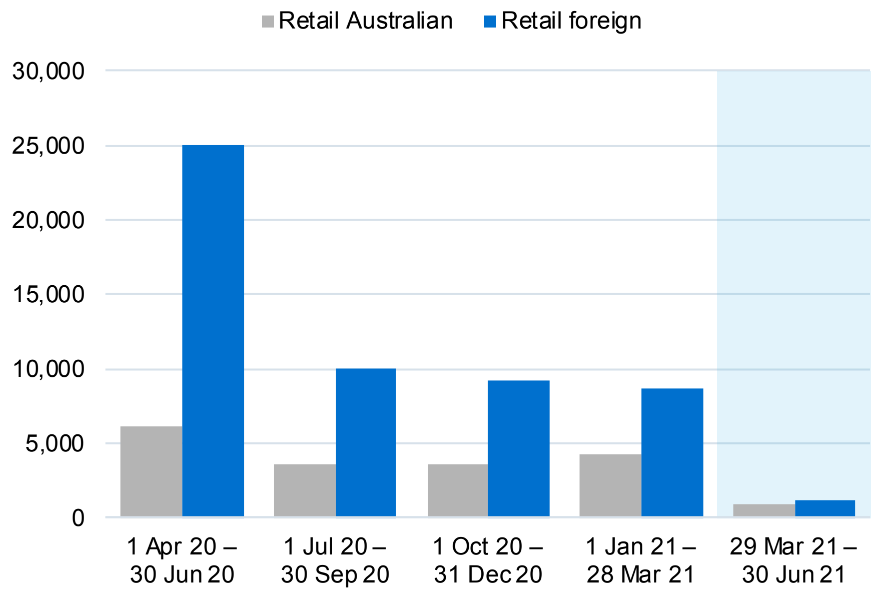
82 A negative balance in a client's CFD trading account occurs where the client's losses from CFD trading exceed the money that the client has deposited in their CFD trading account.

83 For CFDs issued to retail clients on or after the Effective Date, the CFD Order requires that the CFD terms limit the CFD issuer's recourse against the client for a liability incurred under the CFD to the funds in their CFD trading account (Negative Balance Protection).

Negative balance occurrences

84 Since the Effective Date, we have observed that there has been a substantial reduction in the instances of a retail client incurring a negative balance and its attendant harms.

Figure 13: Occurrences where a retail client account entered into a negative balance



Note: See Table 17 in the appendix for the data in this figure (accessible version).

85 For both active retail client accounts and active wholesale client accounts there has been a decline in the number of negative balances per 100 active client accounts. However, the retail number has fallen more sharply. There are now over 15 times as many wholesale client negative balances per 100 active client accounts compared to retail clients.

Table 2: Number of negative balance occurrences per 100 active client accounts

Client	1 Apr – 30 Jun 2020	1 Jul – 30 Sep 2020	1 Oct – 31 Dec 2020	1 Jan – 28 Mar 2021	29 Mar – 30 Jun 2021
Retail	6.12	2.62	2.51	2.57	0.60
Wholesale	20.78	15.81	15.89	11.01	9.21

Negative balance outcomes

86 The negative balance protection in the CFD Order has prevented at least 1,311 retail client accounts from incurring a liability greater than the funds in their CFD trading account.

87 This indicates that the number of retail clients losing at least all of their investment has reduced significantly

88 In addition, retail client CFD trading accounts that went into negative balance in the year before the CFD Order had total losses from liquidated positions which exceeded their invested amounts by approximately $51 million. If Negative Balance Protection had been in place CFD issuers would have had no recourse to retail clients for these excess amounts.

89 However, we note that prior to the Effective Date some CFD issuers may have either forgiven some or all of the negative balances incurred by clients (particularly retail clients) or taken steps to prevent a negative balance from occurring. Some CFD issuers gave effect to this practice under the CFD terms and conditions through informal policies and practices or because of challenges in enforcing these debts. For instance, it can be expensive or impractical to enforce a small debt or a debt owed by an overseas client as in many cases this would require difficult court proceedings in the client's jurisdiction.

90 Also, CFD issuers have used different mechanisms to implement the Negative Balance Protection, with some issuers preventing a negative balance from occurring while others reset accounts that incur a negative balance. Due to these differences, further analysis of the data is required to determine the value of additional loss that would have been incurred but for Negative Balance Protection.

91 Irrespective of whether a negative balance is prevented from occurring or is forgiven in part or in total, it indicates that the client has lost at least all of their investment, even if some or all of their negative balance or debt was forgiven. We consider that the substantial reduction in the number of occurrences of negative balances indicates a significant reduction in harm to retail clients.

Benefits and inducements

92 The CFD Order prohibited giving or offering certain 'prohibited benefits' to retail clients or prospective retail clients as an inducement to open or fund a CFD trading account or trade CFDs.

93 CFD issuers provided information on the value of any benefits given to clients, including gifts, discounts (excluding a discount in costs or fees

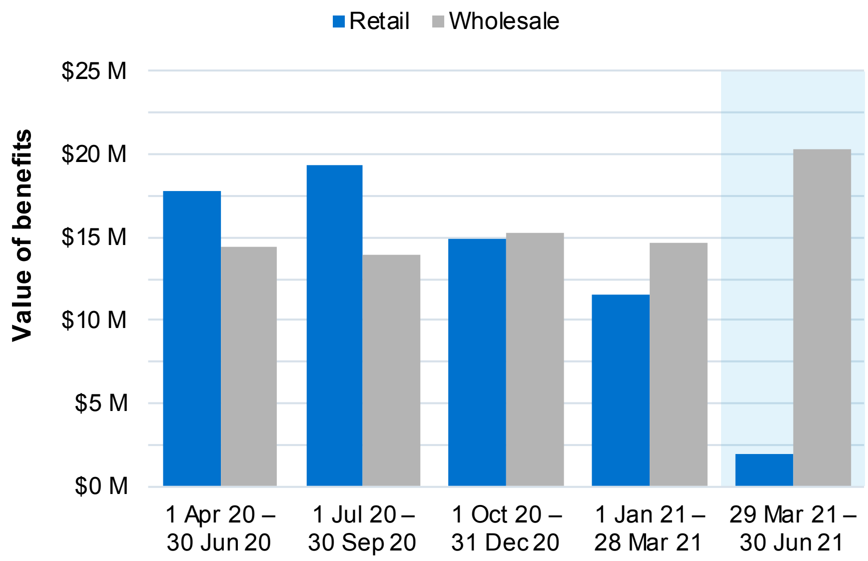
offered to all clients), rebates, trading credits or rewards (but excluding information services or educational or research tools provided).

94 As anticipated, the prohibition against giving or offering certain inducements resulted in the value of benefits given to retail clients falling significantly after the Effective Date.

95 A number of CFD issuers noted that the reported benefits they provided to retail clients after the Effective Date were given for events that had occurred before the Effective Date (which were not prohibited to be paid under the CFD Order) or were benefits that were not prohibited inducements for the purposes of the CFD Order.

96 There was a substantial increase in benefits provided to wholesale clients after the CFD Order came into effect. The CFD Order did not prohibit the provision of inducements to wholesale clients.

Figure 14: Benefits given to clients



Note: See Table 18 in the appendix for the data in this figure (accessible version).

Regression analysis

97 Regression analysis was conducted on the data consisting of client and account metrics per quarter. We found statistically significant, negative correlations between the CFD Order being in place and the following measures of consumer detriment:

(a) proportion of accounts experiencing a margin close-out; and

(b) proportion of loss-making accounts.

98 These associations were found using a standard linear model on the retail population data that controls for volatility, as well as a difference-in-

differences approach which considers the differences in outcomes of these client detriment measures between the treatment (retail) and control (wholesale) groups before and after implementation of the CFD Order. The difference-in-differences approach helps to identify the causal impact of the CFD Order and mitigate any other factors.

99 These negative correlations give a strong degree of confidence that the CFD Order was responsible for the reductions in these measures of consumer detriment, rather than external market factors.

The regression analysis found inconclusive evidence around the negative balance metrics. However, this was not surprising given the different reporting methods and different methods CFD issuers used both before and after the Effective Date.

Cost to CFD issuers

Regulatory compliance burden

100 Before we made the CFD Order in October 2020, we estimated the regulatory compliance burden of the measures in the CFD Order using detailed cost estimates provided on a confidential basis by eight CFD issuers during our consultation. For the 18-month period of the CFD Order, we estimated the average annual regulatory compliance costs to be $22.4 million per year. This estimate of average annual regulatory compliance costs was derived from estimated total implementation costs of approximately $20.1 million and estimated annual ongoing compliance costs of approximately $9 million.

101 In July 2021, licensed CFD issuers provided estimates of their costs in implementing the CFD Order and the ongoing costs of compliance with the CFD Order, which are considerably lower than our compliance cost estimates in October 2021.

Table 3: Implementation costs of CFD Order

Item	Cost (all issuers)
Changes to proprietary trading platforms	$1,046,404
Working with software developers of third-party trading platforms	$582,385
Changes to risk management, disclosure and marketing processes	$712,395
Updating digital material, compliance policy and procedures, terms and conditions and disclosure documents to reflect the changes	$1,024,979

Item	Cost (all issuers)
Undertaking a quality assurance review to ensure that all changes have been correctly implemented	$691,200
Other	$615,588
Total	**$4,672,951**

102 A small number of CFD issuers incurred a large proportion of these costs. For instance, one CFD issuer incurred 32% of the costs of changes of proprietary trading platform.

Table 4: Ongoing costs

Line item	Cost
Ongoing monitoring to ensure compliance	$1,081,849
Regular review of system capabilities	$475,053
Regular client education and communication	$573,564
Regular internal training provided to staff	$348,668
Reviewing the issuer-specific risk warnings	$414,386
Updating disclosures	$454,600
Other	$298,938
Total	**$3,647,058**

103 As with implementation costs, a small number of CFD issuers incurred a significant proportion of these costs. One CFD issuer accounts for approximately one-quarter of these costs although they represent less than one percent of total clients.

104 We expect these ongoing costs to reduce over time as there will be less need for ongoing reviews and updates to documentation.

Other costs

105 In addition to the regulatory compliance costs of the CFD Order, CFD issuers faced a potential loss of profit due to the reduction in the number of active clients and leverage levels (e.g. bid/ask spreads, commissions, overnight funding costs and currency conversion costs).

106 We also note that a reduction in losses of retail clients may, in some circumstances, have the corollary effect of reducing CFD issuer’s profits, given the binary nature of the transaction and the fact that the CFD issuer is

counterparty to the client's trade. However, this will not always be the case as the risk management strategies of CFD issuers means the CFD issuer may enter into another transaction to 'net out' these positions. Therefore, it is not always the case that a loss incurred by a client is a profit for the CFD issuer (and vice versa).

107 However, in some cases, a proportion of foreign client CFD trading and any resulting profits to the CFD issuer may have been shifted to other group entities, reducing this cost. We undertook a review of 10 CFD issuers and identified that six of the AFS licensees 're-papered' approximately 45,000 clients in March and April 2021—almost exclusively foreign retail clients—to offshore entities within their corporate group.

D Proposal

Key points

Subject to this consultation, our further analysis of the impact of the CFD Order and obtaining the approval of the Minister, we propose to extend the CFD Order so that it remains in force until it is revoked.

On the basis of our analysis to date, we consider that the CFD Order has reduced the risk of significant detriment to retail clients.

Our proposed extension of the CFD Order is consistent with measures in force in many other jurisdictions.

Extension of the CFD Order

Proposal

D1 We propose to extend the CFD Order by declaring that the CFD Order remains in force until it is revoked. Our proposal is subject to our consideration of the feedback to this consultation, our further analysis of the impact of the CFD Order and obtaining the approval of the Minister.

Your feedback

D1Q1 Do you agree with our proposal to extend the CFD Order so that it would remain in force until revoked? If not, why not? Should the CFD Order instead be extended for a set period of three or five years until 1 April 2031 (when the Product Intervention Order sunsets)?

D1Q2 In your view, has the CFD Order been effective to date in reducing the risk of significant detriment to retail clients? Please provide evidence and data in support of your view where possible.

D1Q3 For CFD issuers and distributors, if the CFD Order is not extended, would you change your business model and what costs would that incur?

D1Q4 For CFD issuers and distributors, what impact has the CFD Order had on your business? What ongoing impact to your business would you expect if the CFD Order is extended?

D1Q5 If the CFD Order is extended, what annual ongoing costs do you anticipate you would incur? What other costs do you anticipate you would incur?

D1Q6 For retail clients of CFD issuers, has the CFD Order changed your trading? If so, please explain how. For example:

(a) has the frequency of your CFD trading changed?

(b) have you committed more or less margin to CFD trading?

(c) have you substituted other investment products for CFDs?

(d) do you use CFDs for hedging other investment risks? If so, what proportion of your CFD trades?

(e) what impact have financial losses or profits from CFD trading had on you?

(f) do you consider you would have made higher profits or higher losses if the CFD Order had not been in effect?

D1Q7 What effects (if any) do you consider the CFD Order has had on competition in the financial system? What effects are likely if the CFD Order is extended?

Rationale

108 In Section B we explained the background to the CFD Order and why we considered CFDs have resulted in and would likely continue to result in significant detriment to retail clients.

109 Based on our analysis to date, we consider that the CFD Order has reduced the risk of significant detriment to retail clients and that extension of the CFD Order would be likely to continue to reduce the risk of significant detriment.

110 We continue to believe that the CFD Order appropriately strengthens consumer protections by reducing CFD leverage available to retail clients and by targeting CFD product features and sales practices that amplify retail clients' CFD losses. Our analysis to date indicates that the measures in the CFD Order effectively reduce the risk of CFDs resulting in significant detriment to retail clients while allowing retail clients to use them for speculative trading and investment risk management purposes.

111 We believe, on the basis of our analysis, that the reduction in retail client detriment is primarily driven by the CFD Order, rather than any other changes such as changes to the CFD client base or different trading conditions.

112 We have not identified any need to amend the CFD Order to either strengthen the consumer protections by imposing additional restrictions or remove any of the measures. The measures in the CFD Order remain consistent with the regulatory approaches taken by several overseas regulators, including the UK Financial Conduct Authority and national competent authorities in the European Union.

113 We have not proposed to extend the CFD Order for a specified period of time, such as three or five years. We consider there has been an immediate

and significant reduction in retail client detriment shown in the data for the Effective Period. This reduction in retail client detriment was expected and is consistent with the effect of similar interventions abroad. As we continue to monitor the impact of the CFD Order, we expect to see these effects continue into the next quarter and beyond.

114 Any temporary extension of the CFD Order would necessitate a further process to consider whether it should be extended again and would come at additional cost and effort to ASIC and industry, require additional consultation and create uncertainty when innovating and developing new products.

115 Any extension of the CFD Order does not prevent further amendment being made if warranted—for example, to reflect changes in industry practices, technological changes or changes in the impact of the CFD Order on retail detriment. If extended, ministerial approval would be required before the CFD Order could be revoked.

116 We do not support allowing the CFD Order to expire as we consider it has been effective to date in reducing the risk of significant detriment to retail clients resulting from CFDs.

117 In RG 272 at RG 272.4, we contemplated that a product intervention order may be required even where there is compliance with the design and distribution obligations, which commenced on 5 October 2021.

> When such processes [the design and distribution obligations] are in place and working effectively, we expect consumer outcomes to be improved, and it may be less likely that we will be required to exercise the product intervention power. However, the scope of the [product intervention] power, which is focused on preventing significant consumer detriment, extends beyond the design and distribution obligations. If ASIC is satisfied there is a risk of significant consumer detriment, the [product intervention] power can be exercised even when these obligations are being complied with.

118 Our guidance on this issue is consistent with regulatory practice in the United Kingdom and member states of the European Union where regulatory measures equivalent to the design and distribution obligations (product governance regime) and the CFD Order (product intervention relating to CFDs) continue to operate in tandem.

119 Given the nature of the significant detriment identified and that we seek to address with the CFD Order, we do not consider that compliance with the design and distribution obligations would be sufficient to reduce the risk to retail clients. We do not have confidence that all CFD issuers would retain the measures in the CFD Order that are currently applied consistently by CFD issuers.

E Regulatory and financial impact

120 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:

(a) will be appropriate in ensuring consistency with:

(i) the main object of Ch 7 of the Corporations Act, including the promotion of confident and informed decision-making by consumers of financial products and services while facilitating efficiency, flexibility and innovation in the provision of those products and services (s760A(a) of the Corporations Act); and

(ii) ASIC's regulatory objectives set out in s1(2) of the ASIC Act, particularly ASIC's obligations to strive to:

(A) maintain, facilitate and improve the performance of the financial system and the entities within that system in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy; and

(B) promote the confident and informed participation of investors and consumers in the financial system; and

(b) will strike an appropriate balance between:

(i) reducing the risk of the significant detriment to retail clients resulting from CFDs;

(ii) the financial and other impact of the proposed orders on issuers and consumers of CFDs; and

(iii) any effects on competition in the Australian financial system.

121 In settling on a final policy, we will comply with the Australian Government's regulatory impact analysis requirements by:

(a) reviewing and assessing whether the CFD Order is achieving its objectives efficiently and effectively; and

(b) if our assessment of the performance of the CFD Order indicates that it is either not effective or not efficient, performing further regulatory impact analysis in accordance with the *Australian Government Guide to Regulatory Impact Analysis*.

122 Our regulatory impact analysis will be submitted to the OBPR before we make any final decision.

123 To ensure we are in a position to properly complete any required regulatory impact analysis and to prepare a report for the Minister on whether the CFD

Order should be extended, please give us as much information as you can about our proposals or any alternative approaches, including:

(a) the likely compliance costs;

(b) the likely effect on competition; and

(c) other impacts, costs and benefits.

See 'The consultation process', p. 4.

Appendix: Accessible versions of figures

124 This appendix is for people with visual or other impairments. It provides the underlying data for the figures in this report.

Table 5: Total profits and losses of retail client accounts

Time period	Value of profits	Value of losses
1 Apr 2020 – 30 Jun 2020	361.5 M	-955.1 M
1 Jul 2020 – 30 Sep 2020	306.2 M	-867.6 M
1 Oct 2020 – 31 Dec 2020	504.2 M	-592.2 M
1 Jan 2021 – 28 Mar 2021	367.2 M	-610.6 M
29 Mar 2021 – 30 Jun 2021	154.9 M	-177.3 M

Note: This is the data shown in Figure 1.

Table 6: Average profits and losses of active retail client accounts

Time period	Average losses	Average profits
1 Apr 2020 – 30 Jun 2020	$2,761	$2,251
1 Jul 2020 – 30 Sep 2020	$2,536	$1,750
1 Oct 2020 – 31 Dec 2020	$1,962	$2,276
1 Jan 2021 – 28 Mar 2021	$1,922	$1,950
29 Mar 2021 – 30 Jun 2021	$986	$867

Note: This is the data shown in Figure 2.

Table 7: Percentage of loss-making accounts

Time period	Retail %	Wholesale %
1 Apr 2020 – 30 Jun 2020	68%	65%
1 July 2020 – 30 Sep 2020	66%	68%
1 Oct 2020 – 31 Dec 2020	59%	56%
1 Jan 2021 – 28 Mar 2021	63%	63%
29 Mar 2021 – 30 Jun 2021	50%	63%

Note: This is the data shown in Figure 3.

Table 8: Changes in number of profit-making and loss-making retail client accounts

Time period	Profit-making accts	Loss-making accts
1 Apr 2020 – 30 Jun 2020	160,628	345,936
1 Jul 2020 – 30 Sep 2020	175,004	342,105
1 Oct 2020 – 31 Dec 2020	221,506	301,741
1 Jan 2021 – 28 Mar 2021	188,279	317,657
29 Mar 2021 – 30 Jun 2021	178,713	179,840

Note: This is the data shown in Figure 4.

Table 9: Changes in number of wholesale profit-making and wholesale loss-making client accounts

Time period	Profit-making accts	Loss-making accts
1 Apr 2020 – 30 Jun 2020	478	874
1 Jul 2020 – 30 Sep 2020	583	1,217
1 Oct 2020 – 31 Dec 2020	1,125	1,452
1 Jan 2021 – 28 Mar 2021	2,819	4,855
29 Mar 2021 – 30 Jun 2021	4,543	7,722

Note: This is the data shown in Figure 5.

Table 10: Total active retail client accounts

Time period	Retail Australian	Retail foreign
1 Apr 2020 – 30 Jun 2020	118,200	391,222
1 Jul 2020 – 30 Sep 2020	125,671	394,809
1 Oct 2020 – 31 Dec 2020	132,791	378,774
1 Jan 2021 – 28 Mar 2021	165,723	339,182
29 Mar 2021 – 30 Jun 2021	146,283	211,558

Note: This is the data shown in Figure 6.

Table 11: Total active wholesale client accounts

Time period	Wholesale Australian	Wholesale foreign
1 Apr 2020 – 30 Jun 2020	1,088	269
1 Jul 2020 – 30 Sep 2020	1,519	284
1 Oct 2020 – 31 Dec 2020	2,053	533
1 Jan 2021 – 28 Mar 2021	5,777	2,114
29 Mar 2021 – 30 Jun 2021	9,128	3,200

Note: This is the data shown in Figure 7.

Table 12: Changes in active client population types

Time period	Retail Australian	Retail foreign	Wholesale Australian	Wholesale foreign
1 Apr 2020 – 30 Jun 2020	100	100	100	100
1 Jul 2020 – 30 Sep 2020	106	101	140	106
1 Oct 2020 – 31 Dec 2020	112	97	189	198
1 Jan 2021 – 28 Mar 2021	140	87	531	786
29 Mar 2021 – 30 Jun 2021	124	54	839	1190

Note: This is the data shown in Figure 8.

Table 13: Total gross notional value of issued CFDs by client type

Time period	Retail	Wholesale
1 Apr 2020 – 30 Jun 2020	$4.7 T	$557 B
1 Jul 2020 – 30 Sep 2020	$4.8 T	$705 B
1 Oct 2020 – 31 Dec 2020	$3.7 T	$622 B
1 Jan 2021 – 28 Mar 2021	$2.7 T	$1.0 T
29 Mar 2021 – 30 Jun 2021	$0.7 T	$1.2 T

Note: This is the data shown in Figure 9.

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Table 14: Average gross notional value of CFDs issued to active retail clients

Time period	Retail Australian	Retail foreign
1 Apr 2020 – 30 Jun 2020	$12.5 M	$8.2 M
1 Jul 2020 – 30 Sep 2020	$13.5 M	$7.8 M
1 Oct 2020 – 31 Dec 2020	$10.1 M	$6.3 M
1 Jan 2021 – 28 Mar 2021	$7.4 M	$4.2 M
29 Mar 2021 – 30 Jun 2021	$3.5 M	$0.7 M

Note: This is the data shown in Figure 10.

Table 15: Retail client accounts experiencing at least one margin close-out

Time period	Retail Australian	Retail foreign
1 Apr 2020 – 30 Jun 2020	40,176	97,390
1 Jul 2020 – 30 Sep 2020	35,284	94,727
1 Oct 2020 – 31 Dec 2020	31,217	78,315
1 Jan 2021 – 28 Mar 2021	35,680	56,990
29 Mar 2021 – 30 Jun 2021	12,116	5,489

Note: This is the data shown in Figure 11.

Table 16: Percentage of active clients experiencing at least one margin close-out

Time period	Retail %	Wholesale %
1 Apr 2020 – 30 Jun 2020	27%	25%
1 Jul 2020 – 30 Sep 2020	25%	25%
1 Oct 2020 – 31 Dec 2020	21%	23%
1 Jan 2021 – 28 Mar 2021	18%	22%
29 Mar 2021 – 30 Jun 2021	5%	24%

Note: This is the data shown in Figure 12.

Table 17: Occurrences where a retail client account entered into a negative balance

Time period	Retail Australian	Retail foreign
1 Apr 2020 – 30 Jun 2020	6,162	25,020
1 Jul 2020 – 30 Sep 2020	3,557	10,080
1 Oct 2020 – 31 Dec 2020	3,618	9,229
1 Jan 2021 – 28 Mar 2021	4,289	8,699
29 Mar 2021 – 30 Jun 2021	911	1,220

Note: This is the data shown in Figure 13.

Table 18: Benefits given to clients

Time period	Retail	Wholesale
1 Apr 2020 – 30 Jun 2020	$17,754,188	$14,389,470
1 Jul 2020 – 30 Sep 2020	$19,315,846	$13,957,983
1 Oct 2020 – 31 Dec 2020	$14,847,922	$15,311,496
1 Jan 2021 – 28 Mar 2021	$11,581,216	$14,645,721
29 Mar 2021 – 30 Jun 2021	$1,966,287	$20,292,328

Note: This is the data shown in Figure 14.

Key terms

Term	Meaning in this document
active client account	A CFD trading account with at least one trade or an open position 'marked-to-market' during a relevant quarter
active retail client account	An active client account that is categorised as a retail client
active wholesale client account	An active client account that is categorised as a wholesale client
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A.
ASIC	Australian Securities and Investments Commission
ASIC Act	*Australian Securities and Investments Commission Act 2001*, including regulations made for the purposes of that Act
Australian Resident	Includes: (a) a body corporate incorporated or carrying on business in Australia; (b) an Australian citizen; or (c) an individual ordinarily resident in Australia
Australian retail client or Australian retail client account	A retail client or client account that is (or is owned by) an Australian Resident
Australian wholesale client or Australian wholesale client account	A wholesale client or client account that is (or is owned by) an Australian Resident
CFD or contract for difference	A leveraged derivative contract that allows a client to speculate on the change in value of an underlying asset
CFD Order	*ASIC Corporations (Product Intervention Order—Contracts for Difference) Instrument 2020/986* A product intervention order imposing conditions on the issue and distribution of CFDs to retail clients

Term	Meaning in this document
CFD trading account	a trading account that a client has with the CFD issuer, through which the client can place orders to acquire and dispose of CFDs
Corporations Act	*Corporations Act 2001*, including regulations made for the purposes of that Act
Effective Date	29 March 2021, being the date that the measures in the CFD Order took effect
Effective Period	The period from 29 March 2021 to 30 June 2021
Foreign Resident	Any person or body corporate who is not an Australian Resident
foreign retail client or foreign retail client account	A retail client or client account that is (or is owned by) a Foreign Resident
foreign wholesale client or foreign wholesale client account	A wholesale client or client account that is (or is owned by) a Foreign Resident
loss-making account	A client CFD trading account where the net equity (plus any sums withdrawn and minus any deposits made) at the end of a quarter is less than the net equity at the beginning of the quarter
profit-making account	A client CFD trading account where the net equity (plus any sums withdrawn and minus any deposits made) at the end of a quarter is greater than the net equity at the beginning of the quarter
retail client	Has the same meaning as defined in s761A of the Corporations Act
wholesale client	Has the same meaning as defined in s761A of the Corporations Act