

9 August 2019

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BY EMAIL: product.regulation@asic.gov.au

RE: GO MARKETS PTY LTD – RE: CONSULTATION PAPER 313: PRODUCT INTERVENTION POWER

1. On behalf of GO Markets Pty Ltd (“**GO Markets, we, our**”), we wish to express our appreciation to be given the opportunity to provide feedback in relation to Consultation Paper 313: Product Intervention Power (“**Consultation Paper**”).
2. By way of introduction, GO Markets is an issuer of OTC derivatives, including margin foreign exchange contracts and contracts for difference (“**CFDs**”) based in Melbourne, Australia. GO Markets is an Australian Financial Services (“**AFS**”) Licensee (No. 254963) and is authorised by the Australian Securities and Investments Commission (“**ASIC**”) to (inter alia) provide general advice, deal by issuing, and to make a market in derivatives to retail and wholesale clients.
3. GO Markets supports efforts to enhance consumer protections. ASIC have indicated that the products we provide are likely to be subject to product intervention in the future, therefore, we wish to put forward a practical view of ASIC’s proposals that are outlined in the Consultation Paper.
4. GO Markets have not elected to respond to every area in which ASIC is seeking a response. Instead, we have limited our response to areas where we believe we can provide meaningful feedback. We have indicated where we have chosen to provide no submission.

5. Response to Proposal and Questions

B1Q1 - Are there additional factors that ASIC might take into account in determining whether a product has resulted, will result or is likely to result in significant consumer detriment?

- It is our view that consumer demand should be a factor in ASIC's determination. That is, the product may be specifically sought after for its speculative (high-risk) attributes and may function in a way that is – on balance - consistent with consumer expectations. In this vein, if the product is banned, or the core attributes are materially changed, the consumer may seek the same or similar product profile in other jurisdictions. Naturally, this may increase the risk of negative outcomes for consumers.
- We note ASIC's comments in Item 25 of the Consultation Paper regarding to the interaction with the design and distribution obligations. If it is ASIC's intention to use the product intervention powers as a last resort option, it is reasonable that the (forthcoming) design and distribution obligations form part of ASIC's determination regarding product intervention. That is, formal consideration should be given as to whether the design and distribution obligations would be an effective aid in mitigating significant consumer detriment.
- We agree that one of the benefits of the product intervention powers is their ability to deal with 'first-mover' issues. It is, however, our view that ASIC should make the viability of an industry-led response a formal consideration. In our industry, we are observing a strong willingness by providers to moderate certain attributes of their product offering. However, for a variety of reasons, an industry-led response is difficult to achieve. ASIC may wish to consider consulting with industry groups (prior to any formal intervention) to establish a way the product can be offered that is considered to mitigate the risk of significant consumer detriment.

B2Q1 - Are there any other considerations that we should take into account in determining how we will intervene?

We believe ASIC should consider if the method of its intervention may inadvertently give rise to negative outcomes. This may occur when a consumer decides to engage (or is solicited by) a product provider in overseas jurisdiction which has little to no consumer protections. This remains the dynamic after similar intervention powers were exercised in the European

region. The issues that occurred in Europe may encourage, at the very least, a phased approach to implementing any reforms associated with the intervention.

C1Q1 - Do you have any feedback on the information we propose to include in our consultation on a proposed product intervention order?

No submission.

C1Q2 - Is there any other information that we should include when we consult on a proposed product intervention order?

Information ASIC considers relevant in making its determination, including reasons that support:

- a) why an industry-led response could not be achieved;
- b) that the features of the product are the cause of significant consumer detriment – not the conduct of product issuers.

C2Q1 - Do you have any feedback on how we intend to describe the significant consumer detriment?

No Submission.

C3Q1 - Do you agree with our proposed approach to determining whether to delay commencement of a product intervention order? If not, why not?

No Submission.

C3Q2 - Do you agree with the examples of factors that we should consider when determining whether to delay commencement, and the length of any delay? If not, why not?

No Submission.

C3Q3 - Are there any other factors that we should consider when determining whether to delay commencement, or the length of any delay?

Yes, it is our view that the decision to delay commencement (and the length of any delay), should be commensurate to the maturity of the product. That is, an immediate alteration or banning of a product – without a reasonable transition period – may have far reaching implications for consumers and providers alike. In the case of investment products, it may require a longer period of adjustment, especially where the product forms part of an investor's medium to long term investment strategy.

Thank you for your consideration, and if there should be any further questions regarding my submission, you are more than welcome to contact me accordingly.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "C. Gore", written in a cursive style.

Christopher Gore

Chief Executive Officer

GO Markets Pty Ltd