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11 March 2020

Dear Product Regulation

**Response of IG Markets Limited to Consultation Paper 325 *Product design and distribution obligations***

By way of brief background, IG Markets Limited (IG) deals in securities and over-the-counter (OTC) contracts for difference (CFDs) on a broad array of financial instruments, to a retail and wholesale client base. IG is the world's No. 1 CFD provider.<sup>1</sup>

In Australia, IG is regulated by the Australian Securities and Investments Commission (ASIC) and is a wholly owned subsidiary of an ultimate parent company, IG Group Holdings plc (IG Group), which is a market leader in on-line trading. IG Group has a primary listing on the London Stock Exchange where it is an established member of the FTSE 250.

Around the world, IG Group companies are regulated by:

- UK's Financial Conduct Authority;
- Monetary Authority of Singapore;
- South African Financial Services Board;
- US Commodity Futures Trading Commission;
- US National Futures Association;
- Swiss Financial Market Supervisory Authority;
- Japanese Financial Services Agency;
- Japanese Ministry of Finance;
- New Zealand's Financial Markets Authority;
- Germany's BaFin;
- Dubai Financial Services Authority; and
- Bermuda Monetary Authority

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<sup>1</sup> Based on revenue excluding FX (published half-yearly financial statements, June 2019)



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To meet the high expectations of our global regulators, promote a strong culture and mitigate the risk of poor conduct, we have a developed product governance framework which focuses on our clients. We strive to ensure our products and services result in good outcomes for both our clients and the financial markets.

We firmly believe and support proportionate regulation that delivers good client outcomes as we feel this leads to a better, long-term sustainable industry. To meet these regulatory requirements, we ensure that we have at all times: (i) a robust governance structure, (ii) products that are designed to meet the needs of IG's target market, (iii) marketing that is appropriately targeted and (iv) dealing practices that deliver best execution.

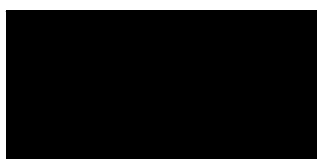
We are supportive of ASIC's work on protecting Australian retail clients from practices within the financial services industry that result in consumer detriment. We firmly believe in robust and proportionate regulatory oversight of financial products and services in Australia, and we fully support initiatives that are designed to strengthen protections for retail consumers.

We are broadly in support of the proposals in CP 325 and the Draft Regulatory Guide. We believe that firms already invested in achieving good client outcomes will not need to significantly change systems, processes and procedures to comply with the product design and distribution obligations and Draft Regulatory Guide. Indeed, IG Group has already extended MiFID II product governance obligations to all Group entities.

We provide our responses to the questions posed in CP 325 below. While we strongly support the product design and distribution obligations, as a general comment, we believe it is important for ASIC's guidance to clearly identify that the design and distribution obligations are separate and distinct to any applicable individual product suitability tests that require an assessment of a client's personal circumstances at the point of sale. We note this is confirmed in RG 000.3, however this isn't consistently reflected throughout the Draft Regulatory Guide.

Please let us know if you would like to discuss our response to CP 325.

Yours sincerely



Kylie Paton  
Head of Compliance



*Response to CP 325 questions*

**B1Q1 Is our guidance on a robust product governance framework useful? What additional matters, if any, do you think are important in ensuring that a product governance framework will be effective and support compliance with the design and distribution obligations?**

Yes. However as noted above, it is important to distinguish throughout the guidance that the design and distribution obligations are separate and distinct to any applicable individual product suitability tests that require an assessment of a client's personal circumstances at the point of sale.

**B2Q1 Is our guidance on the consumer-centric approach issuers and distributors should take to deliver good consumer outcomes useful?**

Yes.

**B2Q2 What additional matters, if any, do you consider to be relevant?**

We don't consider any additional matters to be relevant.

**C1Q1 Do you agree with our approach to guidance on the form and content of a target market determination? If not, why not?**

Yes, we agree.

**C2Q1 Is our guidance on the approach to identifying the target market for new products and continuing products useful?**

Yes.

**C2Q2 What additional matters, if any, do you consider to be relevant?**

We do not consider any additional matters to be relevant.

**C3Q1 Do you have any comments on our approach to guidance on identifying and describing the target market?**

Yes, we agree with this approach.

**C3Q2 Do you have any comments on the following examples, which we have used in our guidance to illustrate key principles set out in RG 000.66–RG 000.89:**

- (a) Example 1: Credit cards;
- (b) Example 2: Reverse mortgages;
- (c) Example 3: Cash options in superannuation;



- (d) Example 4: Consumer credit insurance;**
- (e) Example 5: Low-value products; and**
- (f) Example 6: Basic banking products?**

We do not have any comments on the above examples.

**C4Q1 Do you have any comments on our proposed guidance for issuers considering the role of diversification as it relates to their identification of the target market?**

We do not have any comments on this approach.

**C5Q1 Do you agree that consumer understanding of a product does not necessarily equate to the product being likely to be consistent with the likely objectives, financial situation and needs of consumers in the target market? If not, why not?**

We agree that a consumer's understanding of a product does not necessarily equate to the product being likely to be consistency with the likely objectives, financial situation and needs of consumers in the target market. However, we believe that a consumer's understanding is a question related to individual product suitability tests that require an assessment of a client's personal circumstances at the point of sale, rather than a product design and distribution question.

**C6Q1 Do you agree that it may also be useful for an issuer to describe the negative target market for its financial product? If not, why not?**

We agree that it would be useful for the issuer to determine a negative target market.

**C6Q2 Is our guidance on the role of describing a negative target market adequate and useful? If not, please explain why, giving examples.**

Yes.

**C7Q1 In relation to our guidance on how a target market determination should be approached for superannuation products, as set out in Example 7:**

- (a) Do you agree with our proposed guidance that if investment options are suitable for different groups of members, then the trustee should account for this in undertaking its target market determination for the Choice superannuation product? If not, why not?**
- (b) What factors do you consider relevant to the grouping of investment options in making a target market determination? Why?**
- (c) Do you agree with our proposed guidance to consider insurance as part of the target market determination for a Choice product? If not, why not?**
- (d) How should a trustee take into account insurance in making a target market determination for a Choice product?**

We do not offer these types of products and therefore we do not have any comment to make with respect of these examples.



**C7Q2 Do you agree with our guidance on the application of the target market determination obligation to IDPS?**

We do not offer these types of products and therefore we do not have any comment to make with respect of these examples.

**C7Q3 Do you agree with our guidance on how a target market determination should be approached for a bundled product? If not, why not?**

We do not have any comments on this guidance.

**C7Q4 Do you agree with our proposed approach to the application of the design and distribution obligations to products that can be customised at point-of-sale? If not, why not?**

Yes, we agree with this approach.

**C7Q5 Are there any particular options or choices, or types of options or choices, that you consider would affect the product's suitability for a consumer if selected? Please give examples.**

We reiterate that the design and distribution obligations should be separate and distinct to any relevant individual product suitability tests that require an assessment of a client's personal circumstances at the point of sale.

**C8Q1 Do you have any comments on the following examples, which we have used in our guidance to illustrate key principles set out in RG 000.107–RG 000.120:**

- (a) Example 7: Superannuation products;
- (b) Example 8: Investor directed portfolio services;
- (c) Example 9: Superannuation;
- (d) Example 10: Mortgage fund; and
- (e) Example 11: Listed investment companies?

We do not offer these types of products and therefore we do not have any comment to make with respect of these examples.

**C8Q2 Do you agree with the factors listed in Table 3 of draft RG 000 that we expect will be relevant when considering whether an issuer has met the reasonable steps obligation? If not, why not?**

We do not have any comments with respect of these examples.

**C8Q3 What additional factors, if any, do you consider should be included in Table 3 of draft RG 000?**

We do not believe any additional factors should be included.

**C9Q1 Do you have any comments on our guidance on setting appropriate review triggers and maximum review periods?**



We do not have any comments on this guidance.

**C9Q2 Do you have any comments on the following examples, which we have used in our guidance to illustrate key principles set out in RG 000.127–RG 000.130: (a) Example 12: Insurance; and (b) Example 13: Managed fund?**

We don't have any comments on these examples.

**C10Q1 Do you have any comments on our guidance on the issuer's obligation to specify information it requires from its distributors?**

We don't have any comments on this guidance.

**C10Q2 What existing information collected by distributors would be relevant to an issuer's consideration of the ongoing appropriateness of its target market determination?**

We do not have any comments on such information.

**C10Q3 In addition to the information set out at RG 000.139, are there other types of information an issuer should collect from distributors? If so, please describe the type of information you think would be relevant.**

No.

**C10Q4 What potential effects on competition may occur as a result of the issuer's right to set the information the distributor must provide?**

We do not have any comments on the potential effects of competition.

**C10Q5 Do you have any comments on our guidance on the issuer's obligation to specify the reporting period in relation to the number of complaints?**

We do not have any comments on this guidance.

**C11Q1 Do you consider our guidance on the types of information issuers should have regard to (described at RG 000.143) to be useful? If not, why not?**

We believe that in reviewing a target market determination, the information an issuer must consider should be limited to information that is relevant to the product distribution obligations, rather than "all available information on the financial product".

**C11Q2 In addition to the data sources described in draft RG 000 at RG 000.143(a)–RG 000.143(d), are there other sources of information that you think an issuer should take into account in reviewing a target market determination?**



No.

**C11Q3 Do you have any other comments on our guidance on conducting a review of a target market determination?**

No.

**C12Q1 Are there any additional factors that issuers should consider? If yes, please provide details.**

No. However, there may be legitimate reasons for consumers outside a target market to elect to acquire a financial product. We believe the guidance should reflect that such consumers should be excluded from the proportion of consumers who are not in the target market acquiring the financial product.

**D1Q1 Do you agree with the factors listed in Table 5 of draft RG 000 that we will take into account when considering whether a distributor has met the reasonable steps obligation? If not, why not?**

We believe the guidance with respect of marketing and promotional material should be consistent with existing ASIC Regulatory Guide 234 *Advertising financial products and services (including credit): Good practice guidance*, which states that, “*Mass media has the capacity to reach a wide audience, often beyond the promoter’s target market. Promoters should consider the characteristics of the actual audience that is likely to see the advertisement (e.g. their financial literacy, knowledge, demographics) and whether the advertisement is accurate, balanced and helpful for that audience*”<sup>2</sup>. Rather than the product design and distribution guidance suggesting that specific advertising channels should be restricted, we believe the guidance in RG 234 should be adopted.

**D1Q2 What additional factors, if any, do you consider should be included in Table 5 of draft RG 000?**

We do not think that any additional factors should be included.

**D2Q1 Do you have any comments on our proposed guidance for distributors in Example 14 of draft RG 000?**

We do not have any comments on this proposed guidance.

**D2Q2 What other steps or controls, if any, do you consider would be appropriate for a distributor to consider what reasonable steps should be taken at renewal?**

We don’t have any comments in response to this question.

**D3Q1 Do you agree that, in most cases, a distributor would have sufficient information about a consumer through its existing sales processes to form a reasonable view on whether the consumer is reasonably likely to be in the target market for a financial product?**

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<sup>2</sup> RG 234.133



In most circumstances we would expect that distributors ought to have sufficient information about a consumer through its existing sales processes to form a reasonable view on whether the consumer is reasonably likely to be in the target market for a financial product.

**D3Q2 What data do you consider would help distributors reasonably conclude that a consumer is reasonably likely to be in the target market for a financial product?**

We don't have any comments in response to this question.

**D3Q3 Do you consider our guidance should identify (in draft RG 000 at RG 000.168) other ways that a distributor's sales processes can assist it to form a reasonable view that a consumer is reasonably likely to be in the target market for a financial product? What other approaches can be taken?**

No. We do not think the guidance should be prescriptive in this regard.

**D3Q4 Do you have any comments on our proposed guidance (in draft RG 000 at RG 000.169) on how a distributor could reduce the likelihood of leaving a consumer with the impression that their personal circumstances have been considered?**

We do not have any comments on this proposed guidance.

**D4Q1 Do you have any comments on our proposed guidance on the content of the reasonable steps obligation in these circumstances?**

We do not have any comments on this proposed guidance.

**D4Q2 Are there any specific methods that you consider our guidance should identify for distributors seeking to meet the reasonable steps obligation in the context of interacting with consumers who are outside the target market for a financial product?**

The guidance should include circumstances where it is reasonable for a client who is outside the target market to acquire the product.

**D5Q1 Do you agree that a target market determination for a financial product should be considered by a financial adviser in providing the advice and meeting their best interests duty? If not, please explain**

We don't have any comments in response to this question.

**D6Q1 Do you have any comments on our proposed guidance on using information gathered for the purpose of meeting responsible lending obligations in order to assist a distributor to form a reasonable view on whether a consumer is reasonably likely to be in a target market for a financial product?**

We don't have any comments in response to this question.





**D6Q2 Are there are any further issues you consider are raised by the interaction of the two regimes that should be dealt with in our guidance? Please explain.**

We don't have any comments in response to this question.

**D7Q1 Do you think it would be useful to provide guidance on the following arrangements between the issuer and the distributor:**

- (a) whether there is a need for information requirements to be set out in an agreement between the issuer and the distributor;
- (b) the format of information exchange; and
- (c) the mode of delivery and communication of information? If so, what considerations are relevant to these factors?

We don't have any comments in response to this question.

**D7Q2 Are there other considerations that need to be taken into account in the collection and exchange of information between an issuer and a distributor?**

No.

**E1Q1 Do you agree with the factors that we will take into account when considering whether to provide an exemption from, or modification to, the design and distribution obligations? If not, why not?**

Yes, we agree.

**E1Q2 Are there any additional factors that you consider we should take into account?**

No.

**E2Q1 Do you agree with our proposed approach to providing relief from the design and distribution obligations when disclosure relief has been granted in relation to a financial product? If not, why not?**

We agree with this approach and have no additional comments to make.