



**24 June 2022**

Retail Complex Products and Investor Protection  
Market Supervision  
Australian Securities and Investments Commission  
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**Consultation paper 362: Extension of the binary options product intervention order**

Binary options are extremely high-risk financial products that serve no meaningful benefit to the Australian community. They share many characteristics with high-risk gambling products and regularly result in large losses to consumers.

CHOICE welcomes the Australian Securities and Investment Commission's ('ASIC') proposal to extend the ban on the sale and distribution of binary options to retail clients until 1 October 2031. The proposed product intervention extension ('**Binary Options Order**') will prevent widespread harm to the Australian community.

ASIC's initial Binary Options Order has been effective in reducing the risk of significant detriment to consumers. ASIC's analysis found that before the introduction of the Binary Options Order, 80% of retail clients lost their money trading.<sup>1</sup> As expected, clients' aggregate net losses have now reduced to zero.<sup>2</sup> Given the high-risk nature of these products, significant consumer harm will recommence if the Binary Options Order is not extended.

In 2019, CHOICE strongly supported ASIC's initial product intervention order banning the sale and distribution of binary options to retail consumers.<sup>3</sup> ASIC collected clear empirical evidence that the sale of binary options resulted in significant consumer detriment.<sup>4</sup> For example, in the 13 months leading up to the Binary Options Order, ASIC found there was a total of \$15.7 million in loss-making accounts for retail clients and only \$1.7 million in profit-making accounts.<sup>5</sup>

ASIC's intervention in the binary options market has brought Australia in line with international best practice in consumer financial protection. At least 29 foreign jurisdictions have implemented measures which prohibit or restrict the issue of over the counter ('**OTC**') binary

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<sup>1</sup>ASIC, 2022, Consultation paper 362, pp.17-19.

<sup>2</sup>ASIC, 2022, Consultation paper 362, pp.17-19.

<sup>3</sup>CHOICE submission to ASIC, 2019, RE: Consultation paper 322: Product intervention: OTC binary options and CFDs.

<sup>4</sup>ASIC, 2019, Consultation paper 322: Product intervention: OTC binary options and CFDs, pp.20-24.

<sup>5</sup>ASIC, 2022, Consultation paper 362, p.8.

options to retail clients.<sup>6</sup> The measures in the Binary Options Order remain consistent with the regulatory approaches taken by overseas regulators in major economies, including the United Kingdom's Financial Conduct Authority and the European Securities and Market Authority in the European Union.<sup>7</sup>

CHOICE strongly supports ASIC's Binary Options Order being extended until 2031 pending Ministerial approval. Binary options are effectively a gambling product and we see no genuine benefit for consumers in using these products. The Australian financial system will be better off by enabling consumer investments in products that improve their financial wellbeing and not in products that are designed to harm them. Money not lost to binary options is money that can be used by consumers to engage with legitimate products and services in the Australian financial services market.

For further information please feel free to contact me on [REDACTED] or [REDACTED].

Yours sincerely,

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Head of Policy and Government Relations  
**CHOICE**

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<sup>6</sup>ASIC, 2021, Consultation paper 348: Extension of the CFD product intervention order, p.14.

<sup>7</sup>ASIC, 2021, Consultation paper 348, p.25.