

## NOTICE OF FILING

### Details of Filing

Document Lodged: Statement of Agreed Facts  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 31/07/2025 7:16:46 PM AEST  
Date Accepted for Filing: 31/07/2025 7:16:49 PM AEST  
File Number: VID1381/2024  
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v  
OZTURES TRADING PTY LTD TRADING AS BINANCE AUSTRALIA  
DERIVATIVES (ACN 142 898 324)  
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



**Federal Court of Australia**  
**District Registry: Victoria**  
**Division: General**

VID 1381/2024

**Australian Securities and Investments Commission**  
Plaintiff

and

**Oztures Trading Pty Ltd trading as Binance Australia Derivatives (ACN 142 898 324)**  
Defendant

### **STATEMENT OF AGREED FACTS**

#### **A. Introduction**

1. This Statement of Agreed Facts is made for the purposes of s 191 of the *Evidence Act 1995* (Cth), and contains facts agreed by the Plaintiff, the Australian Securities and Investments Commission (**ASIC**), and the Defendant, Oztures Trading Pty Ltd trading as Binance Australia Derivatives (ACN 142 898 324) (**Oztures**).
2. The document is filed in accordance with paragraph 4 of the Honourable Justice Moshinsky's orders dated 6 March 2025. ASIC and Oztures have agreed that each fact recorded in this document is not, for the purposes of this proceeding, to be disputed.
3. This proceeding concerns Oztures not identifying that 524 clients that it had categorised as "wholesale clients" or "sophisticated investors" were in fact not exempt from acquiring financial products as "retail clients", during the period 7 July 2022 to 21 April 2023 (**Offer Period**).
4. By reason of the agreed facts set out in this document, Oztures admits that, during the Offer Period, it contravened ss 912A(1)(a), 912A(1)(b), 912A(1)(f), 912A(1)(g), 994B(1) and 1012B(3) of the *Corporations Act 2001* (Cth) (**Corporations Act**).
5. The statements made in this Statement of Agreed Facts relate to the Offer Period unless expressly stated otherwise.

#### **B. Background**

6. ASIC is and was at all material times a body corporate:

- (a) established by s 7 of the *Australian Securities Commission Act 1989* (Cth);
  - (b) continued by s 261 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**); and
  - (c) able to sue in its corporate name by reason of s 8(1)(d) of the ASIC Act.
7. Oztures is and was at all material times:
- (a) a corporation duly incorporated; and
  - (b) liable to be sued in its corporate name.
8. Investbybit Pty Ltd trading as Binance Australia (ACN 621 652 579) (**IBB**) is and was at all material times:
- (a) a corporation duly incorporated;
  - (b) (from 23 April 2018 to present) registered with the Australian Transaction Reports and Analysis Centre (AUSTRAC) to operate a digital currency exchange;
  - (c) (from 29 June 2022 to 6 April 2023) a corporate authorised representative of Oztures; and
  - (d) party to a joint venture agreement with Oztures by which it provided to Oztures various services including referrals, the registration of new customers and collection and verification of “Know Your Customer” and “Know Your Business” documentation.
9. Binance Capital Management Co. Ltd.:
- (a) was, at least in the period of 30 June 2022 to 8 September 2022:
    - (i) the parent company of Oztures; and
    - (ii) a company based in the British Virgin Islands; and
  - (b) held, at least in the period 21 January 2022 and 8 October 2022, 46% of the shares in IBB.
10. Binance Holdings (AP) Limited (**Binance Holdings**):
- (a) is the parent company of Oztures and IBB;

- (b) is a company based in Ireland;
  - (c) was, at least in the period of 8 September 2022 to 21 April 2023, the parent company of Oztures; and
  - (d) held, at least in the period of 8 October 2022 to 11 April 2025, 46% of the shares in IBB.
11. At all material times (being, relevantly, the period 7 July 2022 to 6 April 2023), Oztures was the holder of an Australian Financial Services Licence numbered 425165.
12. At all material times (being, relevantly, the period 7 July 2022 to 6 April 2023, or, in respect of a person who was a client of Oztures prior to 6 April 2023, 13 April 2023), Oztures' Australian Financial Services Licence permitted Oztures to deal in a financial product by issuing, applying for, acquiring, varying or disposing of a financial product in respect of the class of financial products, being derivatives.
13. Condition 3 of Oztures' Australian Financial Services Licence provided:
- The licensee must establish and maintain compliance measures that ensure, as far as is reasonably practicable, that the licensee complies with the provisions of the financial services laws.
14. During the Offer Period, Oztures offered the following products to its clients:
- (a) Futures-UM or USD-M Futures: perpetual or delivery contracts for difference that were quoted, collateralised and settled in USDT (Tether - an Ethereum United States Dollar backed stablecoin) or BUSD (Binance United States Dollar backed stablecoin);
  - (b) Future-CM or Coin-M Futures (from 18 August 2022 onwards): perpetual or delivery contracts for difference that were quoted, collateralised and settled in cryptocurrency other than stablecoins, including (but not limited to) Bitcoin, Ethereum and Binance Coin (BNB); and
  - (c) Options (from 30 December 2022 onwards): cryptocurrency options contracts that were quoted and settled in USDT.
- (each, an **Oztures Product** and, together, the **Oztures Products**).

15. Oztures ceased allowing clients to acquire financial products on and from 14 April 2023. It allowed clients to continue to dispose of financial products and close out their positions until 21 April 2023.

**C. Wholesale Assessment**

16. To acquire the Oztures Products, a prospective client was required to:
  - (a) open an account with IBB, into which the prospective client could deposit Australian Dollars;
  - (b) undertake an assessment (the **Wholesale Assessment**) as to whether financial products were to be provided to the prospective client as a “retail client” or a “wholesale client” or a “sophisticated investor”, pursuant to ss 761G and 761GA of the Corporations Act;
  - (c) then be assessed, pursuant to the Wholesale Assessment, to be a “wholesale client” or “sophisticated investor”; and
  - (d) open a “derivatives trading account” with Oztures.
17. Customers were able to access the Oztures Products through the website <https://www.binance.com/en-AU>.
18. During the Offer Period, Oztures took a number of steps to determine whether a client should be classified as a “retail client” or a “wholesale client” or a “sophisticated investor”, pursuant to ss 761G and 761GA of the Corporations Act. This involved taking the following steps during Oztures’ onboarding procedures:
  - (a) the prospective client was directed to a webpage and required to complete an acknowledgment, confirming that it was their intention to apply for one or more derivatives trading accounts with Oztures for the purposes of trading the Oztures Products;
  - (b) the webpage included a warning which provided that over-the-counter derivative products were complex products and involved a high level of risk, which could result in significant losses. The warning also noted that Oztures Products were not suitable for all investors and the prospective client should ensure they understood the nature of the risks involved and that they had considered their appropriateness having regard to their

own financial situation and objectives. The prospective client was required to tick four boxes to confirm (among other things) that:

- (i) the prospective client would not be able to receive services from Oztures unless, in the view of Oztures, it met the definition of 'wholesale client' under the Corporations Act;
  - (ii) the prospective client was capable of assessing whether the products and services offered by Oztures were suitable for the prospective client, and understood the nature and risks associated with trading in the Oztures Products;
  - (iii) the prospective client agreed to inform Oztures if it became aware of any circumstances which may impact whether or not it met the definition of 'wholesale client'; and
  - (iv) the prospective client had read, understood and agreed to be bound by Oztures' Wholesale Client Terms of Business (a link to those terms was included on the webpage).
- (c) at this stage in the application, the prospective client was provided with link to Oztures "Wholesale Client Information Statement", which (among other things) stated that:
- (i) trading in derivatives products involved the potential for profit as well as the risk of losing substantially more than the client's initial deposit or account balance;
  - (ii) derivative products issued by Binance Australia Derivatives were complex, high-risk products only available to wholesale clients as defined in the Act;
  - (iii) before acquiring any of Oztures' products, the client should consider their appropriateness having regard to their own objectives, financial situation and needs, and/or obtain professional financial, legal and/or taxation advice;
  - (iv) if the client did not meet the eligibility requirements to be a wholesale client or a sophisticated investor, they would need to be considered a retail client and would not be able to acquire

any of Oztures' products, as Oztures did not offer products to retail clients;

- (v) Oztures assumed that, as a wholesale client or sophisticated investor, the client had the necessary level of experience and knowledge to transact with Oztures in relation to its products;
  - (vi) it was the client's responsibility to inform Oztures if the client no longer met the criteria to be categorised as a wholesale client or a sophisticated investor;
- (d) the prospective client was also provided with a link to Oztures' "Wholesale Client Terms of Business", which included various terms, including that:
- (i) the prospective client had read, understood and accepted all of the terms and conditions in the Wholesale Client Terms of Business and acknowledged and agreed that they would be bound by and comply with those terms and conditions;
  - (ii) the prospective client acknowledged all the information provided by the prospective client to Oztures was true, correct and complete, and that the prospective client would notify Oztures promptly upon becoming aware of any changes to that information;
  - (iii) the prospective client acknowledged that they were a wholesale client or a sophisticated investor;
  - (iv) if the prospective client did not fully understand the risks associated with services being provided by Oztures, then the prospective client should not use those services;
  - (v) the Wholesale Client Terms of Business had been prepared only for wholesale clients and sophisticated investors, and that as a wholesale client or sophisticated investor, the prospective client would not receive the same investor protections and disclosure documents as those provided to a retail client;
  - (vi) if the prospective client ceased to be a wholesale client or sophisticated investor, the prospective client had an obligation to immediately inform Oztures;

- (vii) by registering for a Derivatives Trading Account, accessing the Trading Platform and/or using the services, the prospective client agreed that they had read, understood and accepted all of the terms and conditions in the Wholesale Client Terms of Business;
- (e) if the prospective client submitted the acknowledgment referred to at 18(b)(i) to (iv) above, they were then presented with an explanation of the categories of “wholesale client” (High Net Worth Individual or Controlled Entity, Professional Investor, Large Business, Sophisticated Investor, Related Body Corporate). They selected one of the categories and ticked a box to certify that they satisfied the criteria described. There was also an additional option which the prospective client could click if they did not meet the criteria for the five categories of wholesale clients above. If a prospective client selected this option, they were not able to open an account and start trading with Oztures unless they requested that their application access be reset and this request was then approved by Oztures;
- (f) a prospective client who sought to be classified as a “Sophisticated Investor” was required to complete a knowledge test to assess their trading experience and professional knowledge. The client was required to achieve a mark of at least 80% to proceed to the next step and able to attempt this test an unlimited amount of times, with the same questions were asked each time;
- (g) if the prospective client progressed past the steps above, they were required to sign and submit an acknowledgment statement which included an acknowledgement (provided by the prospective client) that:

  - (i) all of the information provided by the prospective client was true, complete and correct to the best of their knowledge; and
  - (ii) that the financial products provided by Oztures would be provided to the prospective client as a wholesale client, and did not necessarily have the same investor protection and disclosure requirements as products made available to retail clients;

- (h) at the time of submitting the acknowledgement statement described at 18(g) above, the prospective client was also required to submit the additional documentation:
- (i) a prospective client who sought to be classified as a “Sophisticated Investor” was also required to submit either:
    - A. trading statements showing they had placed a minimum of 60 trades during four out of the past eight quarters with a notional value of more than \$1 million<sup>1</sup> in leveraged derivatives products; or
    - B. an executed Sophisticated Investor Certificate confirming that they held a professional role that gave them satisfactory investment trading or investment management experience for the past 12 months;
  - (ii) a prospective client who sought to be classified as a High Net Worth Individual was required to provide a qualified accountant’s certificate given within the preceding two years which confirmed that the applicant either had net assets of at least \$2.5 million or had gross income of at least \$250,000 for each of the last two financial years;
  - (iii) a prospective client who sought to be classified as a Professional Investor was required to provide evidence of at least \$10 million gross assets in their control (or at least 10 million AUD net assets for a corporate trustee of a superannuation fund), an Australian Financial Services (AFS) licence, Australian Prudential Regulation Authority (APRA) registration, registration under the *Financial Corporations Act 1974* (Cth) or ASX registration or other registration for the official list of a financial market;
  - (iv) a prospective client who sought to be classified as a Large Business was required to provide a statement executed by the

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<sup>1</sup> All references in this statement of agreed facts to \$ are to Australian dollars, unless otherwise specified.

directors of their business to confirm the number of employees employed by the business;

- (v) a prospective client who sought to be classified as a Related Body Corporate of a wholesale client was required to provide a chart which set out the related body corporate's organisational structure to confirm the relationship between the relevant companies;
- (i) the supporting documentation provided by a prospective client during the application process was manually checked by a member of Oztures' compliance team;
- (j) prospective clients who had not completed any of the above steps (including because Oztures' compliance team determined that the supporting documentation was insufficient) were not onboarded as a client of Oztures;
- (k) if a prospective customer was assessed as a "retail client" through the Wholesale Assessment, they could not acquire the Oztures Products unless they requested their application access be reset and this request was then approved by Oztures;
- (l) if the compliance officer approved the prospective client's application after their manual review, the client was able to open an account and start trading with Oztures;

(together, the **Oztures Onboarding Procedures**).

#### **D. Misclassified Clients**

19. During the Offer Period, a total of 611 persons held or opened an account with Oztures (the **Clients**).
20. During the Offer Period, 524 of the 611 Clients did not provide sufficient information as part of the onboarding process for Oztures to confirm that they were not "retail clients" pursuant to s 761G of the Corporations Act and were therefore "retail clients" within the meaning of s 761G(1) of the Corporations Act (the **Retail Clients**).

The Annexure to this document (List of Retail Clients) is a list of the Retail Clients.

21. Of the Retail Clients who sought to be onboarded as a related body corporate, none provided Oztures with sufficient information to determine that they were a related body corporate of a wholesale client as specified in s 761G(4A) of the Corporations Act per s 7.6.02AD of the Corporations Regulations 2001 (the **Regulations**) (**Related Body Corporate Test**).
22. Of the Retail Clients who sought to be onboarded as a 'Large Business', none provided Oztures with sufficient information to determine that they acquired financial products for use in connection with a business that was not a small business as specified in s 761G(7)(b) and (12) of the Corporations Act (**Large Business Test**).
23. Of the Retail Clients who sought to be onboarded as a High Net Worth Individual, none provided Oztures, before the provision of any financial product or service, a copy of a certificate given within the preceding 6 months by a qualified accountant that stated that the person had net assets of \$2.5 million or gross income for each of the last 2 financial years of at least \$250,000 as specified in s 761G(7)(c) of the Corporations Act (**Individual Wealth Test**).
24. Of the Retail Clients who sought to be onboarded as a 'Professional Investor', none provided Oztures with sufficient information to determine that they were:
  - (a) a financial services licensee within the meaning of s 9 of the Corporations Act;
  - (b) a body regulated by the Australian Prudential Regulation Authority;
  - (c) a registered entity within the meaning of the *Financial Sector (Collection of Data) Act 2001* (Cth);
  - (d) the trustee of a superannuation fund, approved deposit fund, pooled superannuation trust or public sector superannuation scheme within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth) with net assets of at least \$10 million;
  - (e) a person who controlled at least \$10 million;
  - (f) a listed entity or related body corporate of a listed entity within the meaning of s 9 of the Corporations Act;
  - (g) an exempt public authority within the meaning of s 9 of the Corporations Act;

- (h) a body corporate or unincorporated body within the meaning of s 9 of the Corporations Act that carried on a business of investment in financial products, interests in land or other investments and for those purposes invested funds received following an offer or invitation to the public for those purposes; or
- (i) a foreign entity within the meaning of s 9 of the Corporations Act that, if established or incorporated in Australia, would be covered by one of the preceding subparagraphs;

as specified in ss 761G(7)(d) and 9 of the Corporations Act (**Professional Investor Test**).

25. Despite Oztures Onboarding Procedures, of the 460 clients who sought to be onboarded as a Sophisticated Investor:

- (a) none were provided with a written statement in accordance with s 761GA(e) of the Corporations Act setting out Oztures' reasons for being satisfied on reasonable grounds that the Retail Client had previous experience in using financial services and investing in financial products that allowed the Retail Client to assess:
  - (i) the merits of the product or service;
  - (ii) the value of the product or service;
  - (iii) the risks associated with holding the product;
  - (iv) the client's own information needs; and
  - (v) the adequacy of the information given by the licensee and the product issuer; and
- (b) Oztures did not determine whether the clients otherwise satisfied the requirements of s 761GA (**Sophisticated Investor Test**).

26. Despite Oztures Onboarding Procedures, of the Retail Clients:

- (a) approximately 460 were incorrectly classified as meeting the Sophisticated Investor Test;

- (b) approximately 33 were incorrectly classified as meeting the Individual Wealth Test;
  - (c) approximately 26 did not provide sufficient evidence that they met and were incorrectly classified as meeting the Professional Investor Test;
  - (d) approximately 4 did not provide sufficient evidence that they met and were incorrectly classified as meeting the Related Body Corporate Test; and
  - (e) approximately 1 did not provide sufficient evidence that they met and was incorrectly classified as meeting the Large Business Test.
27. The Retail Clients referred to at sub-paragraph 26(a) above were able to open an account with Oztures due to Oztures assessing that the prospective client met the Sophisticated Investor Test as part of the Wholesale Assessment despite Oztures not giving the prospective client a written statement of Oztures' reasons for being satisfied as to the matters in 761GA(e) of the Corporations Act.
28. Some of the Retail Clients referred to at sub-paragraph 26(a) above were able to open an account with Oztures due to Oztures assessing that the prospective client met the Sophisticated Investor Test as part of the Wholesale Assessment despite one or more of the following:
- (a) the prospective client undertaking a "Sophisticated Investors Knowledge Test" that did not adequately test whether the prospective client had previous experience in financial services and investing sufficient to assess the matters in s 761GA of the Corporations Act;
  - (b) the prospective client not having provided any evidence of trading experience;
  - (c) the prospective client not having provided adequate evidence of trading experience; or
  - (d) the prospective client providing, as the prospective client's employer in the "Sophisticated Investor Certification" form, a business or company which did not appear to be connected to derivatives trading.
29. The "Sophisticated Investors Knowledge Test" conducted by Oztures was a multiple-choice test with 10 questions. All prospective clients were permitted to attempt the

Sophisticated Investors Knowledge Test an unlimited number of times and the same questions were asked on each attempt.

30. The Retail Clients referred to at sub-paragraph 26(b) above were able to open an account with Oztures due to Oztures assessing that the prospective client met the Individual Wealth Test as part of the Wholesale Assessment despite the prospective clients not having provided a certificate given within the preceding 6 months by a qualified accountant that stated that the prospective client had net assets of \$2.5 million or gross income for each of the last 2 financial years of at least \$250,000.
31. The Retail Clients referred to at sub-paragraph 26(c) were able to open an account with Oztures due to Oztures assessing that the prospective client met the Professional Investor Test as part of the Wholesale Assessment despite one or more of the following:
  - (a) the prospective client not having provided adequate evidence of meeting the Professional Investor Test; or
  - (b) the prospective client not being a public authority or instrument or agency of the Crown in right of the Commonwealth, a State, or a Territory when the prospective client had certified that they met the Prospective Investor Test on the basis of being an “exempt public authority”.
32. The Retail Clients referred to at sub-paragraph 26(d) were able to open an account with Oztures due to Oztures assessing that the prospective client met the Related Body Corporate Test as part of the Wholesale Assessment despite the prospective client not having provided adequate evidence of meeting the Related Body Corporate Test.
33. The Retail Client referred to at sub-paragraph 26(e) was able to open an account with Oztures due to Oztures assessing that the prospective client met the Large Business Test as part of the Wholesale Assessment despite the prospective client not having provided adequate evidence of meeting the Large Business Test.

**E. Internal dispute resolution process**

34. Between 8 July 2022 to 21 April 2023 (the **Issue Period**), Oztures internal dispute resolution procedure was contained in the policy entitled “Complaints Handling Policy”.
35. During the Issue Period, Oztures "Complaints Handling Policy"

- (a) did not adopt the precise definition of “complaint” set out in AS/NZS 10002:2014;
- (b) defined “complaint” as, “any expression of dissatisfaction made to Binance related to its products(s) or services(s), or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected”. The difference between the definition in Oztures’ Complaints Handling Policy and the definition of “complaint” in AS/NZS 10002:2014, is that the definition in AS/NZS 10002:2014 extends the definition of complaint to an expression of dissatisfaction “about” an organisation;
- (c) provided that one of the channels through which a user may submit complaints was “Binance’s social media channels”.
- (d) did not provide that Oztures would acknowledge receipt of each complaint within 24 hours (or one business day) of receiving it, or as soon as practicable. Instead, Oztures’ Complaints Handling Policy provided that Binance would endeavour to ensure that complaints were addressed in a prompt and efficient manner and that as part of this, it would acknowledge complaints on the same day or within 48 hours (two business days) of receiving the complaint;
- (e) did not provide that Oztures would provide a written communication of the final outcome of the complaint within 30 calendar days after receiving the complaint. Instead, Oztures’ Complaints Handling Policy provided that a final response would be provided within 35 business days of receipt, or within a reasonable period of time (generally not exceeding 60 business days) taking into consideration the nature of the complaint;
- (f) did not require Oztures to inform the complainant that they have a right to pursue their complaint with the Australian Financial Complaints Authority (AFCA), in the event that the complaint remained unresolved at completion of the internal dispute resolution process or may not be resolved within the relevant maximum timeframe; and
- (g) did not require Oztures to provide to the complainant details about how to access the Australian Financial Complaints Authority, in the event that the complaint remained unresolved at completion of the internal dispute

resolution process or may not have been resolved within the relevant maximum timeframe.

36. The note to paragraph 28 of ASIC Regulatory Guide 271: Internal Dispute Resolution (**ASIC RG 271**) provides that in relation to the definition of "complaint" referred to in paragraph 35(b) above:

*Note: We interpret the words 'or about an organization' in the definition to cover expressions of dissatisfaction made on social media in accordance with RG 271.32(a). We do not require these words to be read any more broadly than this.*

37. RG 271.32(a) states that the following expressions of dissatisfaction is a complaint:

*posts (that meet the definition of 'complaint' set out in RG 271.27) on a social media channel or account owned or controlled by the financial firm that is the subject of the post, where the author is both identifiable and contactable; Note 1: We do not expect financial firms to seek to identify complaints made on third party social media accounts or channels.*

38. Oztures was a member of the Australian Financial Complaints Authority (**AFCA**) scheme. After Oztures had identified that the Retail Clients had been incorrectly classified as wholesale clients, in communications sent to those clients it provided details about how the clients could access AFCA.

#### **F. Permitting Retail Clients to open an account with Oztures**

39. During the Issue Period, Oztures issued one or more of the Oztures Products to a number of the Retail Clients.

40. Permitting the Retail Clients, and each of them, to open an account with Oztures meant that each Retail Client was not afforded consumer protections required by the Corporations Act to be afforded to a person not exempt from acquiring financial products as a "retail client" pursuant to s 761G(1) of the Corporations Act. In particular, Oztures did not:

- (a) during the Offer Period, provide a Product Disclosure Statement to any of the Retail Clients to whom it offered or issued the Oztures Products at the time it offered or prior to the issue of an Oztures Product to the Retail Client;

- (b) during the Issue Period, make a Target Market Determination in respect of each of the Oztures Products prior to the issue of that Oztures Product to any of the Retail Clients; and
- (c) during the Issue Period, have an internal dispute resolution system that complied with the applicable standards required when providing financial services to “retail clients”.

41. During the Issue Period, there were reasonable grounds for Oztures to believe that any of the Retail Clients to whom one or more of the Oztures Products were issued had not previously been provided a Product Disclosure Statement for the relevant Oztures Product.
42. By being permitted to acquire the Oztures Products without the consumer protections described in paragraph 35 above, each Retail Client was exposed to risk of financial loss.

**G. Affected Customers and Harm Caused**

43. As set out in paragraph 20 above, Oztures’ conduct affected 524 customers, who were incorrectly classified as ‘wholesale clients’ based on the information and documents provided to Oztures and were able to access Oztures’ platform and be issued with the Oztures Products.
44. Certain affected customers paid certain fees to Oztures. In addition, certain customers incurred trading losses through investments in one or more of the Oztures Products. Those amounts are estimated as follows.

<b>Category</b>	<b>Number of Customers Affected</b>	<b>Total Trading Losses</b>	<b>Total Fees Paid to Oztures</b>	<b>Total</b>
Sophisticated Investor	460	US\$1,047,125.14	US\$1,525,989.40	US\$2,573,114.54
Individual Wealth	33	US\$3,040,422.37	US\$430,024.44	US\$3,470,446.81
Professional Investor	26	US\$1,554,667.16	US\$578,244.33	US\$2,132,911.49
Related Body Corporate	4	US\$208.42	US\$9.18	US\$217.60

Large Business	1	-	-	-
Total	524	US\$ 5,642,423.09	US\$2,534,267.35	US\$ 8,176,690.44

45. The table below contains the currency conversions of the figures in the table above from USD to AUD as at 30 July 2025:

Category	Number of Customers Affected	Total Trading Losses	Total Fees Paid to Oztures	Total
Sophisticated Investor	460	\$1,608,240.12	\$2,343,709.72	\$3,951,949.84
Individual Wealth	33	\$4,669,670.36	\$660,458.36	\$5,330,128.72
Professional Investor	26	\$2,387,754.81	\$888,103.72	\$3,275,858.53
Related Body Corporate	4	\$320.10	\$14.10	\$334.20
Large Business	1	-	-	-
Total	524	\$8,665,985.39	\$3,892,285.90	\$12,558,271.29

#### H. Oztures' receipt of funds

46. Oztures received fees paid by customers who were onboarded and subsequently traded in the Oztures Products. Those fees are set out in paragraph 44 above.

#### I. Financial position of Oztures

47. The financial position of Oztures for the period of 1 July 2021 to 31 June 2023 is in the table below:

Year	Net Assets	Total Equity	Revenue	Pre-tax loss
FY22	\$861,498	\$861,498	-	\$203,164
FY23	\$5,113,770	\$5,113,770	\$5,918.021	\$5,031,271

48. The pre-tax loss figure for FY23 includes \$9,320,500 paid in customer compensation and related legal fees.

49. The financial position of Oztures for the period 1 January 2024 to 31 December 2024 is set out in the table below:

Net Assets	Total Equity	Income	Gross Profit	Net Profit/Loss
\$718,204.05	\$718,204.05	-\$5,407.85	-\$5,407.85	-\$521,881.03

50. Binance Holdings is currently the parent company of Oztures and IBB. Binance Holdings (together with its related companies) operates the world's largest centralised digital asset exchange.

51. The financial position of IBB for the period 1 January 2024 to 31 December 2024 is set out in the table below:

Net Assets	Total Equity	Income	Gross Profit	Net Profit/Loss
\$206,633,683.92	\$206,633,683.92	\$51,726,255.74	\$45,877,466.99	\$10,524,673.63

## **J. Prior Conduct**

52. Oztures has not previously been found by a Court to have engaged in a breach of the Corporations Act.

## **K. Compliance Processes and Role of Senior Management**

53. The Wholesale Assessment was inadequate and/or not followed in practice. In particular:

(a) 524 clients out of a total of 611 Clients were misclassified as wholesale clients as described in paragraph 20 above;

(b) the misclassification arose because:

(i) in relation to the 460 sophisticated investor clients, Oztures did not provide those customers with a written statement in accordance with s 761GA(e) of the Corporations Act and/or did not identify that these customers had not provided sufficient evidence to demonstrate their status as a sophisticated investor;

- (ii) in relation to the other 64 clients, Oztures did not identify that the supporting documents provided by these clients was not sufficient to support the declarations or acknowledgements made by them to demonstrate that they satisfied the Individual Wealth Test, the Professional Investor Test, the Related Body Corporate Test or the Large Business Test respectively;
- (c) when conducting their manual review for the 524 clients, the compliance team members did not identify the insufficiency of the supporting documents submitted by the Retail Clients to allow the reviewers to form the view that the Clients met the relevant wholesale client category;
- (d) there was no monitoring by more senior compliance staff of the manual review conducted by compliance team members before or after a Client was onboarded;
- (e) the only policy document relevant to the Wholesale Assessment was the "*Binance Australia Derivatives Wholesale Clients Policy*". This document records the "*eligibility tests*" for the categories of wholesale investors, documents required to meet the tests and records which must be kept. There are no records as to how this policy was used by Oztures, who it was provided to and any training on this policy; and
- (f) Oztures became aware of the misclassification of clients in the course of responding to statutory notices issued by ASIC on 13 December 2022.

54. Further:

- (a) The "Sophisticated Investors Knowledge Test" did not adequately test whether the prospective client had previous experience in financial services and investing sufficient to assess the matters in s 761GA of the Corporations Act. It was a multiple-choice test with 10 questions. Prospective clients were permitted to attempt it an unlimited number of times and the same questions were asked on each attempt.
- (b) None of the clients originally classified as Sophisticated Investors were provided with a written statement as required by s 761GA(e) of the Corporations Act.

- (c) a number of the Retail Clients passed the Professional Investor Test having certified they were a public authority or instrument or agency of the Crown in right of the Commonwealth, a State or a Territory despite being natural persons.
55. On 23 March 2021, ASIC sent a letter to various industry participants regarding the issue of misclassification of retail clients as wholesale clients. In that letter, ASIC asked industry participants *“to ensure that your client classification and onboarding procedures accord with the law and that you keep appropriate records to evidence your assessment and classification of any clients as wholesale clients”*.
56. On 12 June 2021, ASIC sent the letter referred to in paragraph 55 above to Mr Michael Sawyer.
57. From around July 2022 to 5 April 2023, Mr Sawyer was a Responsible Manager for Oztures. Between 18 December 2019 and 5 April 2023, Mr Sawyer was the Responsible Manager of Rosherville Asset Management Pty Ltd, which then changed its name to Rosherville Investment Group Pty Ltd on 2 September 2020 and then changed its name to Oztures on 8 April 2022. Mr Sawyer was also a director of the company from 17 July 2017 until it changed its name to Oztures.
58. The Oztures compliance team which included senior managers, were responsible for the implementation and oversight of the Wholesale Assessment and Onboarding Procedures.

#### **L. Reports to ASIC**

59. Following the issuing of statutory notices by ASIC on 13 December 2022, on 24 February 2023, Oztures notified a reportable situation to ASIC in relation to the misclassification of Retail Clients. Oztures identified a breach, or likely breach, of a number of obligations under the Corporations Act due to the misclassification of the retail clients, including the following:
- (a) s 1012B(3).
  - (b) s 994B(1);
  - (c) s 912A(1)(a);
  - (d) s 912A(1)(b); and
  - (e) s 912A(1)(g)(i).

60. Oztures lodged the following further breach reports:
- (a) on 2 March 2023, Oztures provided a notice which specified that 506 clients had been affected or would likely be affected, and estimated the total financial loss to affected clients at \$7,000,000;
  - (b) on 20 March 2023, Oztures disclosed that it inadvertently provided financial services to a further Retail Client on 28 February 2023; and
  - (c) on 11 September 2023, Oztures disclosed that it had inadvertently provided financial services to a further 19 Retail Clients in the period up to 22 April 2023.
61. On 5 April 2023, Oztures voluntarily applied to ASIC to cancel its Australian financial services licence. That cancellation took effect on 6 April 2023.

**M. Remediation**

62. In February 2023, Oztures commenced offboarding the Retail Clients from the Binance platform after providing notification to the Retail Clients. By 25 February 2023, all affected customers had been suspended from using the Binance platform.
63. After Oztures became aware of the misclassification of Retail Clients, Oztures paid approximately \$13,100,000 in full compensation to Retail Clients for aggregated losses and fees (including interest).
64. The remediation program was overseen by ASIC and was consistent with Regulatory Guide RG277 Consumer Remediation.
65. The methodology that underpinned the remediation program was designed to place the affected Clients back in the same position as if they had never been onboarded as a client and traded derivatives on the Binance platform. The remediation program was independently reviewed by KordaMentha.

**N. Cooperation**

66. Oztures has:
- (a) cooperated during ASIC's investigation;
  - (b) admitted the majority of the alleged contraventions pleaded by ASIC; and
  - (c) cooperated in full during the course of the proceedings to date.

Date: 31 July 2025

**ANNEXURE****List of Retail Clients**

<b>Row #</b>	<b>User ID</b>	<b>Issued Oztures Products</b>
<b>A. Sophisticated Investor</b>		
1.	10056890	Yes
2.	10192363	Yes
3.	10273315	Yes
4.	10788657	Yes
5.	10805091	Yes
6.	10808507	Yes
7.	10871161	Yes
8.	10887275	Yes
9.	10915062	Yes
10.	10961872	Yes
11.	11067512	Yes
12.	11067755	Yes
13.	11090381	Yes
14.	11106332	Yes
15.	11136870	Yes
16.	11226781	Yes
17.	11230177	Yes
18.	11250098	Yes
19.	11269378	Yes
20.	11300316	Yes
21.	11396759	Yes
22.	11585155	Yes
23.	11727961	Yes
24.	11872037	Yes
25.	12033572	Yes

Row #	User ID	Issued Oztures Products
26.	12035613	Yes
27.	12311635	Yes
28.	12807755	Yes
29.	12953216	Yes
30.	12993136	Yes
31.	13030618	Yes
32.	13056036	No
33.	13095783	No
34.	13105235	Yes
35.	13181213	Yes
36.	13350913	No
37.	13665975	Yes
38.	13712511	No
39.	13830252	No
40.	13892927	Yes
41.	13909121	Yes
42.	13919560	Yes
43.	13967572	Yes
44.	15008620	Yes
45.	15080303	Yes
46.	15125929	Yes
47.	15171732	Yes
48.	15215990	Yes
49.	15257591	Yes
50.	15260379	Yes
51.	15390570	Yes
52.	15570093	Yes
53.	15971096	No

Row #	User ID	Issued Oztures Products
54.	16052603	Yes
55.	16230078	Yes
56.	16555586	Yes
57.	16589852	Yes
58.	16605890	Yes
59.	16623058	Yes
60.	16729320	Yes
61.	16769030	Yes
62.	16873069	Yes
63.	16928897	Yes
64.	17136101	Yes
65.	17787689	Yes
66.	17835582	No
67.	17968826	Yes
68.	17990365	Yes
69.	18213281	Yes
70.	18253009	Yes
71.	18391088	Yes
72.	18579780	Yes
73.	18675526	Yes
74.	18692251	Yes
75.	19007069	No
76.	19133195	Yes
77.	19356777	Yes
78.	19500365	No
79.	19580361	Yes
80.	19631795	No
81.	19729052	No

Row #	User ID	Issued Oztures Products
82.	19862131	Yes
83.	20021725	Yes
84.	20032159	Yes
85.	20129386	Yes
86.	20169816	Yes
87.	21629569	Yes
88.	21909162	Yes
89.	22000062	Yes
90.	22302573	Yes
91.	22390587	Yes
92.	22752580	Yes
93.	22850378	Yes
94.	22980176	Yes
95.	22985506	No
96.	23109552	Yes
97.	23166217	Yes
98.	23207709	Yes
99.	23792519	Yes
100.	25128628	Yes
101.	25131325	Yes
102.	25132075	Yes
103.	25559627	No
104.	25617976	Yes
105.	25692205	Yes
106.	25752858	Yes
107.	25770369	Yes
108.	25921291	Yes
109.	26175321	Yes

Row #	User ID	Issued Oztures Products
110.	26181831	No
111.	26305375	Yes
112.	26573775	Yes
113.	26720936	Yes
114.	26787766	Yes
115.	28171070	No
116.	28268366	Yes
117.	28636902	Yes
118.	28673652	Yes
119.	29017381	Yes
120.	35569829	Yes
121.	35793118	Yes
122.	35939934	Yes
123.	36033047	Yes
124.	36054348	Yes
125.	36138668	Yes
126.	36390165	Yes
127.	36518301	Yes
128.	36589160	Yes
129.	36596434	Yes
130.	36658026	Yes
131.	36667299	Yes
132.	36781431	No
133.	36797790	Yes
134.	36906341	Yes
135.	37017218	Yes
136.	37018414	Yes
137.	37186354	Yes

Row #	User ID	Issued Oztures Products
138.	37268623	No
139.	37289779	Yes
140.	37379480	Yes
141.	37615540	No
142.	38029139	Yes
143.	38130623	Yes
144.	38511112	Yes
145.	38534016	Yes
146.	38825130	Yes
147.	38870722	Yes
148.	38983025	Yes
149.	39036714	Yes
150.	39237713	Yes
151.	39355839	Yes
152.	39441312	Yes
153.	39482260	Yes
154.	39844169	No
155.	39975734	Yes
156.	40156355	No
157.	40465351	Yes
158.	40550833	Yes
159.	41022502	Yes
160.	41518247	Yes
161.	41593689	No
162.	41925998	No
163.	42071471	No
164.	42197549	Yes
165.	42872186	Yes

Row #	User ID	Issued Oztures Products
166.	43080575	Yes
167.	43753048	Yes
168.	44783392	Yes
169.	45476742	Yes
170.	45526980	Yes
171.	45797389	Yes
172.	45847175	Yes
173.	46225571	Yes
174.	47653810	Yes
175.	48249820	Yes
176.	49002062	Yes
177.	50462733	Yes
178.	53376342	Yes
179.	53721600	No
180.	53813287	No
181.	55008639	Yes
182.	55187221	No
183.	55599398	Yes
184.	56440446	Yes
185.	56956385	No
186.	57346341	Yes
187.	57741867	Yes
188.	58647250	Yes
189.	58704491	Yes
190.	58735719	Yes
191.	59013051	Yes
192.	60163412	Yes
193.	60812900	No

Row #	User ID	Issued Oztures Products
194.	61667371	Yes
195.	61815102	Yes
196.	62367631	Yes
197.	63091086	Yes
198.	63104604	Yes
199.	63481498	Yes
200.	64281004	Yes
201.	64395102	Yes
202.	65065848	Yes
203.	65300599	No
204.	66195607	Yes
205.	67034779	Yes
206.	67066389	Yes
207.	67173341	No
208.	67566045	Yes
209.	67638660	Yes
210.	67840479	Yes
211.	67866935	Yes
212.	68054098	Yes
213.	68334119	Yes
214.	69501214	No
215.	69911426	No
216.	70057934	Yes
217.	70793119	Yes
218.	70913589	Yes
219.	72936599	Yes
220.	73625244	Yes
221.	73795658	Yes

Row #	User ID	Issued Oztures Products
222.	75182459	No
223.	76169933	Yes
224.	77588210	No
225.	77941520	Yes
226.	78829128	Yes
227.	79052192	Yes
228.	79402127	Yes
229.	79640476	No
230.	81354224	Yes
231.	82895380	Yes
232.	83375788	Yes
233.	83823442	Yes
234.	84837512	No
235.	85163164	Yes
236.	85193293	Yes
237.	85680717	Yes
238.	85754494	No
239.	85768953	Yes
240.	86109826	Yes
241.	86683261	Yes
242.	88013971	No
243.	88119779	Yes
244.	88874209	Yes
245.	89431491	Yes
246.	89981647	Yes
247.	91535120	Yes
248.	91691519	Yes
249.	92170347	Yes

Row #	User ID	Issued Oztures Products
250.	93596884	Yes
251.	94037387	No
252.	94635458	Yes
253.	96338897	Yes
254.	97068737	Yes
255.	99915538	No
256.	99977695	Yes
257.	101121848	Yes
258.	104304254	Yes
259.	104529094	Yes
260.	105417357	Yes
261.	107070187	No
262.	108596035	Yes
263.	108646642	Yes
264.	110141078	Yes
265.	110721187	Yes
266.	111937425	Yes
267.	113248905	Yes
268.	117092641	Yes
269.	117908744	No
270.	119269876	Yes
271.	119488025	Yes
272.	120692338	Yes
273.	120835606	Yes
274.	121236642	Yes
275.	122838433	Yes
276.	122878137	Yes
277.	122953796	Yes

Row #	User ID	Issued Oztures Products
278.	126667822	Yes
279.	127531280	Yes
280.	127559672	Yes
281.	127847260	Yes
282.	129178095	Yes
283.	129350764	Yes
284.	130758552	Yes
285.	132498750	Yes
286.	132995725	Yes
287.	133701484	No
288.	134414367	Yes
289.	135219893	Yes
290.	135828993	Yes
291.	136213980	Yes
292.	136786638	Yes
293.	137434082	Yes
294.	139706742	Yes
295.	141380380	Yes
296.	143665771	No
297.	145060615	Yes
298.	147049964	No
299.	149140591	Yes
300.	149969459	Yes
301.	150828397	Yes
302.	150942586	Yes
303.	151034760	Yes
304.	152045834	Yes
305.	152167650	Yes

Row #	User ID	Issued Oztures Products
306.	152818089	No
307.	153382851	Yes
308.	154595959	No
309.	154993894	Yes
310.	155806370	Yes
311.	156135291	No
312.	156497587	Yes
313.	157175702	Yes
314.	157223660	No
315.	157345407	Yes
316.	157906112	Yes
317.	161535749	Yes
318.	162083330	Yes
319.	162982657	Yes
320.	164314834	Yes
321.	166481530	Yes
322.	169128246	Yes
323.	169780549	Yes
324.	170330821	Yes
325.	170410796	Yes
326.	170455146	Yes
327.	171178981	Yes
328.	172243865	Yes
329.	172297406	Yes
330.	172590168	Yes
331.	178379238	Yes
332.	179431952	Yes
333.	180999374	Yes

Row #	User ID	Issued Oztures Products
334.	183864426	Yes
335.	184418819	Yes
336.	186672434	Yes
337.	190820380	Yes
338.	191304803	Yes
339.	192465270	Yes
340.	192744130	Yes
341.	200278302	Yes
342.	201317694	No
343.	201680365	No
344.	202808933	Yes
345.	205955902	No
346.	208806234	Yes
347.	215168015	Yes
348.	217145671	No
349.	218333990	No
350.	218475927	Yes
351.	218476905	Yes
352.	219700318	Yes
353.	221023694	No
354.	221865704	Yes
355.	222790030	No
356.	225993276	Yes
357.	255076659	Yes
358.	276333234	Yes
359.	280798508	Yes
360.	281303210	Yes
361.	282911611	Yes

Row #	User ID	Issued Oztures Products
362.	283054782	Yes
363.	284399264	Yes
364.	286446964	Yes
365.	288115636	Yes
366.	297038047	Yes
367.	297118507	Yes
368.	297646170	Yes
369.	304601788	Yes
370.	304602281	Yes
371.	305177264	Yes
372.	308418830	Yes
373.	311041593	Yes
374.	314688979	Yes
375.	329006986	Yes
376.	333211914	Yes
377.	336812378	Yes
378.	350997893	Yes
379.	357298520	Yes
380.	365606059	Yes
381.	368367584	Yes
382.	373298950	Yes
383.	375654560	Yes
384.	379272165	No
385.	380413688	Yes
386.	380420300	Yes
387.	381494174	Yes
388.	385935766	Yes
389.	386078906	Yes

Row #	User ID	Issued Oztures Products
390.	390840927	Yes
391.	392091587	No
392.	394820440	Yes
393.	407910530	Yes
394.	417238624	Yes
395.	432712271	Yes
396.	433808152	Yes
397.	440127029	Yes
398.	441767686	Yes
399.	443089745	Yes
400.	444709935	Yes
401.	446677120	Yes
402.	454752526	No
403.	456038779	Yes
404.	456430776	Yes
405.	457760167	Yes
406.	458270861	No
407.	458385701	Yes
408.	465740807	Yes
409.	472284025	Yes
410.	472957109	Yes
411.	473434946	Yes
412.	478668169	No
413.	479108736	No
414.	479359552	Yes
415.	479398807	Yes
416.	479753399	Yes
417.	481781710	Yes

Row #	User ID	Issued Oztures Products
418.	482633058	Yes
419.	483823638	Yes
420.	484347598	Yes
421.	486587241	Yes
422.	486959228	No
423.	490026539	Yes
424.	495274963	Yes
425.	496788469	No
426.	507524105	Yes
427.	507600964	Yes
428.	507962740	Yes
429.	509699205	Yes
430.	510601331	Yes
431.	511652282	Yes
432.	512916566	Yes
433.	513733058	No
434.	514827619	Yes
435.	517764071	Yes
436.	519330080	Yes
437.	521121765	Yes
438.	522562317	Yes
439.	525091144	Yes
440.	526773063	Yes
441.	530075438	No
442.	531232912	No
443.	531554680	Yes
444.	531566107	Yes
445.	531618340	Yes

Row #	User ID	Issued Oztures Products
446.	531887016	No
447.	532924156	Yes
448.	533430198	Yes
449.	533433337	Yes
450.	533755694	Yes
451.	534584800	No
452.	541598146	Yes
453.	543056131	Yes
454.	547740125	Yes
455.	551444145	Yes
456.	551730264	Yes
457.	559481253	Yes
458.	563085561	Yes
459.	566049101	Yes
460.	566148444	No
<b>B. Individual Wealth Test</b>		
461.	15835011	Yes
462.	17598767	Yes
463.	23167966	No
464.	36280305	Yes
465.	45463117	No
466.	83286106	Yes
467.	108955918	No
468.	124880892	Yes
469.	126427674	Yes
470.	136769596	Yes
471.	169617913	Yes
472.	190169901	Yes

Row #	User ID	Issued Oztures Products
473.	191801498	Yes
474.	194909551	Yes
475.	196266902	Yes
476.	215449163	Yes
477.	254261496	Yes
478.	290459226	Yes
479.	291864804	Yes
480.	345052595	Yes
481.	349469363	Yes
482.	356369069	Yes
483.	402817460	Yes
484.	410957466	No
485.	440044281	No
486.	445095319	No
487.	446241822	No
488.	484739367	Yes
489.	495082660	Yes
490.	495931812	Yes
491.	504240383	Yes
492.	536966168	Yes
493.	560995732	Yes
<b>C. Professional Investor Test</b>		
494.	11972299	Yes
495.	12856258	Yes
496.	35868785	Yes
497.	57885124	Yes
498.	58763416	Yes
499.	67825858	Yes

Row #	User ID	Issued Oztures Products
500.	76150354	Yes
501.	77052882	Yes
502.	81317372	Yes
503.	101336248	Yes
504.	111433587	Yes
505.	119606484	Yes
506.	155951472	No
507.	157671111	Yes
508.	172772684	Yes
509.	296170971	Yes
510.	309562884	Yes
511.	319030443	Yes
512.	386356025	No
513.	416922423	Yes
514.	441760300	No
515.	508473165	Yes
516.	519507566	Yes
517.	521178143	No
518.	533829357	No
519.	537985408	No
<b>D. Related Body Corporate</b>		
520.	368973512	No
521.	463372502	No
522.	508344405	No
523.	539918174	Yes
<b>E. Large Business Test</b>		
524.	38275927	No