



Australian Government

Department of the Prime Minister and Cabinet Office of Best Practice Regulation

Reference: 25721

Telephone: 6271 6270

e-mail: helpdesk-obpr@pmc.gov.au

Ms Cathie Armour
Commissioner
Australian Securities and Investments Commission

Dear Ms Armour

Regulation Impact Statement – Second-Pass Final Assessment – Product intervention: OTC binary options

Thank you for your letter received on 14 January 2021 submitting a Regulation Impact Statement (RIS) on product intervention proposals relating to over the counter (OTC) binary options for formal second-pass Final Assessment. I note the RIS has been formally certified consistent with the *Australian Government Guide to Regulatory Impact Analysis*.

I appreciate the Australian Securities and Investments Commission's (ASIC's) constructive engagement on this RIS, and the effort invested in addressing the Office of Best Practice Regulation's (OBPR's) first-pass Final Assessment comments.

The OBPR's assessment is the quality of the regulatory impact analysis in the RIS, and the process that underpinned it, is adequate.

While the RIS addresses the seven RIS questions, it contains some elements which could have been improved. To achieve good practice, the RIS would have benefitted from better demonstration of evidence for consumer detriment, and an appropriate level of consultation on all of the proposed options. For example:

- demonstrating complaints from Australian consumers indicating financial losses as a result of trading in OTC binary options, along with greater evidence of providers taking unfair advantage or exploiting the identified information asymmetries, would have significantly improved the evidence base for the identified problem; and
- consultation on Option 2, which emerged in the RIS after ASIC's initial consultation process was completed, would have better informed the impact analysis by facilitating more robust comparison with the status quo and preferred Option 1.

The RIS may now be provided to the decision maker to inform their final decision.

I would appreciate ASIC advising the OBPR when a final decision has been announced and forwarding a copy of the RIS in a form meeting the Government's accessibility requirements. The OBPR will publish the RIS, along with your certification and this assessment, on the OBPR's website <https://ris.pmc.gov.au>.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jason Lange', written in a cursive style.

Jason Lange
Executive Director
22 January 2021