

Question No: 011
Reference: Page 55-56
Committee Member: Mr Georganas

Questions:

Mr GEORGANAS: The question that you got part of was about the article that appeared on the weekend in The Age, I think it was. Sarah Dankert was the journo who wrote some pieces about some people who were dealing in derivatives. One of them was a particular person that was wanted in the US on fraud charges, who had many trading groups here. All were licensed under the AFSL. He had many associates here in his business, including another man up on charges in Israel. The issue is, how do these people get licensed with checks and balances, especially when they are up on charges overseas? It wouldn't be too hard to discover that. Part of the investigation in the paper was also about a Mr D'Amore from Berndale Capital Securities and how he received funding from members of the Melbourne underworld, the notorious Carlton clan.

These are pretty serious allegations. I am sure you would have seen these articles. The point I am trying to get at is why have there been delays in cutting back on binary options or banning binary options in Australia? Has there been a push back from the industry? If there has been, which industries have been pushing back? Does ASIC agree that we're lagging behind world standards in terms of these products, given that a lot of these groups gave account managers the instructions—this was reported in the paper—'Kill your customers'. What does that say about the potential harm of CFDs for retail customers? They are pretty serious reports on the weekend. I think ASIC would have been on top of it immediately, looking into it, which I am sure you would be. Could you perhaps brief us on it?

Ms Armour: I think there are a couple of issues that I will try to quickly address. Please let me know if you would like me to speed up or slow down at any stage. On the industry generally, we consulted at the end of last year on the use of our product intervention powers in relation to those binary options and contracts for difference. Our proposal that we consulted on in relation to binary options was to ban binary options. The view we proposed, if you like, and we were looking for responses to, was that those products did not provide any meaningful investment purpose. We have received quite a degree of response to that proposal. We had a second proposal which is for contracts for difference. That was to effectively restrict some of the leverage rules, some of what we thought were more complex and harmful aspects of the products for retail investors.

We received a large number of submissions in relation to both proposals. We have recently come to a decision in relation to the contracts for difference proposals. That will impose restrictions on those products. We are still coming to our final decision on the binary option element of that. That deals with our approach on those issues. We do note that the decision that we've made in relation to contracts for difference, we'll effectively put restrictions on leverage available on these products to retail consumers that are more consistent with the rules that apply in other countries. We need to finalise our binary options proposal, but certainly our proposal was consistent with some of the changes that have occurred in other jurisdictions. In relation to the licensing issue, yes, that is an issue that we have been focused on for some time. We haven't issued a lot of licences for providers of those sorts of products. We have issued far less than applications. As you probably are aware, the obligation on ASIC is that it

must issue a licence if there is an application that meets the requirements. It's only this year that the requirements about good character were strengthened by legislation. As a result we did find that there was a tendency and a bit of a market, if you like, for entities that were already licensed by ASIC, for there to be changes of control in those entities. They would be sold off. Some of the entities had significant value because they were licensed. It creates a different sort of problem.

We have been very carefully looking at the perimeter. In relation to entities that were mentioned in the newspaper article, we have been actively surveilling those entities. We have brought action against those entities. We were quite responsive. If you look at the times when the allegations came to light about the entities and the individuals, you'll see that ASIC took action at those times.

There wasn't a clear chronology in the article that reflected how we would have necessarily seen how things occurred. I'm happy to provide additional information if that would help.

Mr GEORGANAS: That would help.

Ms Armour: Does that answer all the elements of your question?

Mr GEORGANAS: I have got a few more. That would really help, especially if you provided the committee with the industry members that provided advice, as well, if that is possible. That would be really important.

Ms Armour: Yes, there are about 64 licensees in the sector. I think it is four or five on the market.

Mr GEORGANAS: It would be great if you could possibly provide that information to the committee. I'll put that on notice.

Answers:

Berndale

Publicly disclosable Information

Berndale Capital Securities Pty Ltd (formerly Berndale Group Pty Ltd and Forex TG Pty Ltd) (**Berndale**) operated under the name, Forex TG Pty Ltd until February 2016. From August 2014 to November 2015, Daniel Kirby and Aviv Talmor were joint directors of Forex TG and Stavro D'Amore was CEO. In November 2015, Aviv Talmor resigned as a director and Stavro D'Amore and Daniel Kirby took over Forex TG's operations.

Voluntary Suspension – 2016

- **In February 2016**, ASIC agreed to allow Forex TG (**Berndale**) to voluntarily suspend its AFS licence following the change of ownership. Forex TG indicated to ASIC that it intended to recommence its business activities following a number of changes to the company's name, corporate structure and processes. Forex TG did in fact undergo a restructure and name change in early 2016 during which the company changed its name to Berndale Group Pty Ltd. ASIC only reinstated the licence once the new owner/s provided appropriate documentation to support same. D'Amore was appointed the Responsible Manager under the licence. Responsible Managers are assessed under the competence and expertise guidelines outlined under RG 105, at the time in question the

responsible manager was deemed to have met one of the Options under RG105 for the authorisations held under the AFS licence.

Media Release re voluntary suspension - <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2016-releases/16-031mr-forex-tg-requests-voluntary-suspension-of-afs-licence>

- **November 2018**, ASIC cancelled Berndale's AFS licence and banned D'Amore from providing financial services for a period of 6 years. Berndale made an application for appeal of this decision in the Administrative Appeals Tribunal (**AAT**) however this appeal was later dismissed following the appointment of the liquidators.
- **December 2018**, ASIC successfully obtained freezing orders in the Federal Court in relation to the assets of Berndale and two associated entities Berndale Capital Securities Management Pty Ltd (**BCSM**) and Algoplus Pty Ltd (**Algoplus**), (together, **Berndale Group**) and D'Amore.
- **April 2019**, Receivers and Managers were appointed to the Berndale Group by the Federal Court following application brought by ASIC in December 2019.
- **October 2019**, following successful application by ASIC, the Federal Court ordered the winding up and appointment of liquidators to Berndale, BCSM and Algoplus.

In 2017 ASIC conducted an industry-wide review of the retail OTC derivatives sector, which resulted in ASIC report 579. Our review showed that, at the time, Berndale was as relatively small player in the Australian market by number of clients, turnover and retail client monies.

AGM Markets Pty Ltd - Background Chronology

- AGM Markets Pty Ltd (**AGM Markets**) held a license to operate a business issuing margin FX contracts, CFDs and binary options to retail clients in Australia.
- On **23 January 2015**, the director and shareholder of the company subsequently known as AGM Markets changed with Mr Yossef Ashkenazi being appointed as director and Mr Yossi Herzog becoming the indirect 100% shareholder of the company via the parent company he owned and controlled, Yogi Wealth Pty Ltd.
- In **April 2015**, ASIC suspended the AFS license of AGM Markets pursuant to section 915B(3) of the *Corporations Act* for a period of six months, as at that time AGM Markets was found not to be operating a financial services business and AGM Markets had indicated to ASIC that the company intended to recommence a business under its AFSL following the making of a number of changes to its corporate structure in the wake of its changes to its ownership and director.
- Following the expiry of this suspension period in **2016**, AGM Markets only engaged in a limited number of transactions until, in **mid-2017**, AGM Markets' engagement with clients materially increased, it appointed OT Markets Pty Ltd (**OT**) and Ozifin Tech Pty Ltd (**Ozifin**) as Corporate Authorised Representatives and it utilised call centres to contact its clients.

- On **13 June 2017**, Ozifin entered into a Corporate Authorised Representative Agreement (**CAR Agreement**) with AGM Markets, making it AGM Markets' authorised representative pursuant to s 911B(1)(b) of the Corporations Act 2001 (Cth). On 18 September 2017, OT Markets also entered into a CAR Agreement with AGM Markets, also making it an authorised representative pursuant to s 911B(1)(b).
- Account managers engaged by OT and Ozifin were based in overseas call centres. In the case of OT the account managers were based in Cyprus and the Philippines. In the case of Ozifin the account managers were based in Cyprus.
- In **November 2017**, AGM Markets also entered into an agreement with Falcon IC&T Ltd (**Falcon**), pursuant to which Falcon also provided call centre services to the Alphatrade business operated by AGM Markets. The call centre operated by AGM Markets was based in Israel.
- In **November 2017**, ASIC began receiving complaints from customers of OT Markets and Ozifin. This timing of the complaints being lodged with ASIC accords with a change to the operation of AGM Markets' business.
- In each case clients were contacted by an account manager engaged on behalf of one of the three companies and it is the interactions between the account managers engaged by the various companies and retail clients in Australia which resulted in the key misconduct found by the Federal Court.

AGM Markets - Litigation Chronology

- On **7 February 2018**, ASIC commenced an investigation into the suspected provision of unlicensed personal financial product advice, false or misleading statements and unconscionable conduct engaged in by AGM Markets, OT and Ozifin (**Corporate Defendants**).
- On **12 February 2018**, ASIC brought an application before the Federal Court in Melbourne seeking orders to:
 - restrain the Corporate Defendants from removing their assets from Australia and freezing the Corporate Defendants relevant bank accounts;
 - preventing two individuals involved with AGM Markets and OT Markets from leaving Australia without the consent of the court.

Ultimately, almost the entirety of the amounts deposited by clients with the Corporate Defendants since the call centres began operations in late 2017, being more than \$30 million, was restrained by ASIC.

- On **13 February 2018**, ASIC issued a public notice warning regarding the interim injunction warning the public not to deal with AGM (operating under the trading name Alphatrade), OT or Ozifin (operating under the trading name Trade Financial) in relation to trading in margin FX contracts for difference. Several updates have since been added to the public notice warning.
- On **11 April 2018**, ASIC filed and served an Amended Originating Process and Amended Interlocutory Process seeking orders that the Corporate Defendants be wound up on just and equitable grounds and the appointment of a provisional liquidator to the Corporate Defendants.
- On **24 July 2018**, ASIC brought an interim hearing before the Federal Court seeking the appointment of a provisional liquidator or in the alternative an interim receiver over the Corporate Defendants.

- Judgment was delivered **on 27 July 2018**, in which Justice Beach declined to make orders for the appointment of a provisional liquidator or interim receiver. and ordered the Corporate Defendants to file further evidence.
- **On 21 September 2018**, AGM brought an interlocutory application seeking to enjoin ASIC from taking any further steps in the administrative proceeding commenced by ASIC by Notice of Hearing issued on 28 August 2018, seeking the cancellation or suspension of AGM's AFSL.
- **On 27 September 2018**, Justice Beach dismissed AGM's application and temporarily stayed the civil proceedings pending the receipt of submissions from all parties addressing the question of the civil proceedings stay.
- **On 5 November 2018**, AGM's AFSL was cancelled. A determination was also made for the banning from the financial services industry of the former CEO of AGM Yossef Ashkenazi for a period of eight years.
- AGM makes an application seeking that the hearing be adjourned for at least six weeks while their newly engaged lawyers (O'Loughlin Westhoff) and counsel (Andrew Meagher) read in on the matter and prepared any additional evidence and submissions AGM may wish to rely on. ASIC was unsuccessful in resisting AGM's application and **on 24 June 2019**, the hearing listed to commence on that day for an estimate of five days was vacated.
- **On 18 July 2019** the solicitors acting for AGM in the Proceedings filed a notice of ceasing to act.
- **On 29 July 2019**, further orders were made as to timetabling of the matter and the case management hearing at 10.00am on 30 July 2019 was vacated.
- **28 July 2019 to 2 August 2109** ASIC obtains evidence from two former OT call centre employees who ASIC have flown to Australia this week to provide evidence as potential witnesses in the proceedings. ASIC files 16 Affidavits and the tender bundle.
- **On 14 August 2019**, ASIC filed its Third Amended Originating Process and Points of Claim
- **On 27 September 2019**, an administrator appointed over OT, being Mathew Gollant FCPA RITF of Courtney Jones & Associates as Company Administrator.
- **On 30 September 2019**, Ozifin appointed Hall Chadwick as liquidators.
- **On 1 October 2019** ASIC sought orders that it is granted leave to proceed with the proceeding hearing to seek declarations and civil pecuniary penalties.
- Trial held before Beach J on **1, 2 and 7 October 2019** unopposed except for written closing subs by Ozifin.
- **On 7 October 2019**, his Honour Justice Beach reserved judgement following the hearing on liability.
- **On 11 October 2019** hearing held into ASIC's application seeking the appointment of a provisional liquidator to AGM Markets and OT and the removal of the liquidator appointed to Ozifin and their replacement with the persons proposed as liquidator of AGM Markets \ and OT. His Honour ordered that separate liquidators be appointed to each of the companies and that all three companies be wound up on just and equitable grounds.
- **On 26 February 2020** the Federal Court found that AGM, OT and Ozifin engaged in systemic unconscionable conduct.
- **On 16 October 2020** the federal court imposed a \$75million penalty on AGM, OT and Ozifin

Number of Licensees in industry

- According to Industry Funding records (which is determined by AFSL authorisation), there were 99 licensees at the end of the FY19/20 which were authorised to provide retail OTC derivative products.
- According to ASIC's monthly derivative client money reconciliations as at 30 October 2020, there were 61 licensees active in the industry (albeit three with \$0 in retail client money), totalling \$2.367 billion in retail client money.
- There have been a number of AFSL holders who are authorised to provide retail OTC derivative products who have chosen to cease providing these services due to ASIC's heightened supervisory and enforcement focus and as such have shifted their attention on other financial products authorised under their AFSL. As such the total number authorised to provide retail OTC derivative products has decreased from FY18/19 to FY19/20.

We attach a summary of ASIC's public actions relating to the retail OTC derivative sector over the last 10 years.

**Overview of ASIC Outcomes – Retail OTC Sector
2010 - 2020**

July 2010	ASIC released Report 205 , which summarises the results of a 'health check', conducted by ASIC in 2009, on the CFD market in Australia.
July 2010	Australian issuers of CFDs needed to do much more to ensure investors understood the significant risks in trading these complex financial products, a study from the Australian Securities and Investments Commission, has found. (10-153 MR)
March 2011	Andrew Mark Perkin - ASIC banned a former Gold Coast-based foreign exchange trader, Mr Andrew Mark Perkin, as part of an enforceable undertaking with him. The undertaking bans Mr Perkin from providing financial products or financial services for a period of four years. (11-56AD)
August 2011	ASIC released RG 227 , which identifies new disclosure benchmarks for CFDs, margin FX and similar products that aim to improve disclosure and investor awareness about risks of these products. (11-167MR)
April 2012	Simon Marcus Gundry - ASIC permanently banned a former CFD dealer following an ASIC investigation. It was found that although the business was deregistered on 28 April 2008, Mr Gundry continued to use the SSG Trading business name when he dealt with some of his 15 investors, inducing them to invest \$835,168 through his trading platform. (12-74MR)
July 2012	ASIC released new financial requirements for retail OTC issuers. These financial requirements include, among other things, that issuers will require to hold net tangible assets the greater of: <ul style="list-style-type: none"> • From 31 January 2013: \$500,000 or 5% of average annual revenue; and • From 31 January 2014: \$1,000,000 or 10% of average annual revenue. (12-180MR)

July 2012	Saxo Capital Markets (Australia) Pty Ltd – ASIC imposed AFSL conditions on Saxo (still in place) after the collapse of Sonray Capital Markets Pty Ltd. (12-14AD)
October 2012	ASIC, APRA and RBA published Report 309 on the Australian OTC Derivatives market.
December 2012	ASIC released Report 316 which set out our observations of the client money handling practices of retail OTC derivative and margin FX issuers in Australia. The report follows a risk-based surveillance conducted by ASIC between December 2011 and August 2012. (12-298MR)
December 2012	Robert Clare Henley - ASIC banned Robert Clare Henley, director of Apple Investment Company Pty Ltd, of Queensland, from providing financial services for five years after it was found ASIC has reason to believe that Mr Henley will not comply with financial services laws. (12-319MR)
March 2013	ASIC proposed draft rules consultation paper 201 to establish a trade repository regime – the next step in implementing Australia's international commitments regarding OTC derivatives such as credit default swaps. (13-051MR)
March 2013	ASIC proposed draft rules via consultation paper 205 addressing the mandatory trade reporting obligations for OTC derivatives such as interest rate swaps and CFDs. (13-066MR)
April 2013	City Index Australia Pty Ltd (now Gain Capital Australia Pty Ltd) – ASIC accepted a court enforceable undertaking (CEU) following an ASIC surveillance which found deficiencies in its client money handling practices. (13-076MR)
April 2013	Halifax Investment Services Ltd – ASIC accepted a CEU from Halifax Investment Services Ltd (Halifax) following an ASIC surveillance which found deficiencies in their risk management and compliance. (13-071MR)
June 2013	Murray John Priestly - ASIC has banned Murray John Priestley, formerly CEO of the Lifestyle Group, from providing financial services for three years after finding

	he engaged in misleading and deceptive conduct. (13-134MR)
October 2013	Robert Lloyd Wilson - ASIC banned Robert Lloyd Wilson from providing financial services and warned the public not to deal with the failed businessman whose companies provided unlicensed share and forex software programs. (13-282MR)
August 2013	Roco International Pty Ltd (now Eightcap Pty Ltd) – ASIC imposed additional AFSL conditions after identifying issues with market risk management systems (13-229MR)
October 2013	GTL Tradeup Pty Ltd – ASIC cancelled AFSL and warns consumers about trading retail OTC products without understanding the risks involved (13-283MR)
February 2014	Forex Financial Services Pty Ltd – ASIC accepted a CEU after FFS offered an account known as an individually managed account (IMA) which was a managed discretionary account (MDA) without authorisation. (14-036MR)
July 2014	Vault Markets Pty Ltd - ASIC commenced action in the NSW Supreme Court to stop Vault Market Pty Ltd and its sole director, Mr MD Anamul Amin unlicensed financial services and to close down a website with the domain name 'www.kiwifxbank.com'. (14-155MR)
September 2014	Invast Financial Services Pty Ltd - Invast, an AFS licensee based in Sydney, has paid \$20,400 in penalties after ASIC issued two infringement notices for alleged misleading representations. (14-241MR)
September 2014	Global Derivative Services Pty Ltd - ASIC cancelled the AFSL of Global Derivative Services Pty Ltd after an investigation found it failed to comply with several of its AFS licence obligations. (14-226MR)
September 2014	ASIC has warned consumers to be wary of a fake website promoting foreign exchange broker, First Forex. First Forex and related entities Fifix and FIFX Global promote their services at www.fifix.com and falsely claim that their services are 'under the regulation of Australia'. (14-231MR)
October 2014	Monarch FX Group Pty Ltd - ASIC commenced proceedings in the Federal Court of Australia to stop Monarch FX Group Pty Ltd, and its former director and

	<p>general manager, Quinten Hunter, from carrying on a financial services business. ASIC is concerned that Monarch FX is not licensed or authorised to operate the MDA services. (14-266MR)</p>
October 2014	<p>Pepperstone Group Ltd - Pepperstone Group Ltd agreed to cease providing financial services in Japan following inquiries by ASIC that revealed they were not licensed by the Japanese Financial Services Agency. (14-267MR)</p>
November 2014	<p>Scott Logan - ASIC banned Logan from providing financial services for seven years after an ASIC investigation found he breached numerous financial services laws as a director and sole employee of Shore Capital Pty Ltd which traded in CFDs on behalf of retail clients when it was not authorised to do so. (14-304MR)</p>
November 2014	<p>Youtrade Capital Markets Australia Pty Ltd - ASIC cautioned investors against unlicensed services provided by YoutradeFX (14-306MR)</p>
December 2014	<p>First Prudential Markets Pty Ltd - ASIC accepted CEU relating to concerns about its compliance processes for detecting and dealing with potentially manipulative client trading. (14-345MR)</p>
December 2014	<p>Calibre Investments Pty Ltd – After ASIC surveillance Calibre Investments, which provides managed discretionary account (MDA) services, agreed to implement changes to the way it offered FX services to retail clients. (14-327MR)</p>
December 2014	<p>Monarch FX Group Pty Ltd – Federal Court (Vic) made a declaration that Monarch FX and Mr Quinten Hunter unauthorised to provide certain financial services (14-342MR).</p>
February 2015	<p>ASIC issues a warning about Opteck and other unlicensed binary option providers (15-024MR)</p>
February 2015	<p>ASIC amends rules on trade reporting obligations for OTC derivatives following industry consultation (15-023MR)</p>
February 2015	<p>Enfinium Pty Ltd – ASIC cancelled AFSL as it failed to have adequate risk management systems, specifically controls on its Meta Trader 4 (MT4) trading platform and a plug-in device known as the 'Virtual Dealer.' (15-026MR)</p>

March 2015	AGM Markets Pty Ltd - ASIC suspended the AFS licence of AGM Markets pursuant to section 915B(3) of the <i>Corporations Act</i> for a period of six months, as at that time AGM Markets had ceased operating a financial services business and indicated to ASIC that the company intended to recommence its business following the making of a number of changes to the company including its brand and corporate structure. (15-075MR)
March 2015	Grandegoldens Pty Ltd - ASIC cautioned investors against unlicensed services provided by Grandegoldens (15-066MR)
April 2015	Advanced Markets Ltd - Following ASIC enquiries, Advanced Markets Ltd agreed to make changes to its website regarding statements which may have been misunderstood as implying that ASIC regulates all financial services provided by Advanced Markets, including those which are not carried on in Australia. (15-085MR)
May 2015	ASIC cancelled the AFSLs of four retail OTC issuers for failing to lodge annual accounts (15-100MR)
May 2015	Rainbow Legend Group Pty Ltd – ASIC cancelled the AFSL of Rainbow Legend for failing to comply with its obligations, including making false and misleading statements. (15-108MR)
May 2015	FX Primus – agreed to make changes to its websites and to notify its Australian clients that it was not licensed to provide those clients with financial services. (15-120MR)
June 2015	A cold-calling operation, FXTS Guru, promoting FX and binary option products to investors worldwide, has agreed to stop contacting Australian investors following ASIC concerns. (15-152MR)
July 2015	GTL Tradeup Pty Ltd and Mr Jeffers – Mr Jeffers director of Trade Up Pty Ltd (In Liquidation) banned. (15-193MR)
August 2015	FIBO Group Limited and Trading Point of Financial Instruments Limited – after ASIC engagement both companies ceased to provide financial services into

	Australia as they were not duly authorised (only their related entities were licensed in Australia (15-233MR))
August 2015	Australian Capital Markets Advisory Services Pty Ltd (ACMAS) - ASIC suspended the AFSL of ACMAS until 30 October 2015 on the grounds that it had ceased to provide financial services in this jurisdiction. The suspension was subsequently extended to 27 November 2015. (15-217MR)
September 2015	LSG Group Pty Ltd (formerly NZ Global Financial Trading Pty Ltd) - ASIC cancelled the AFSL of LSG Group Pty Ltd. (15-293MR)
November 2015	O.C.M. Online Capital Markets Pty Ltd (now xTrade.au) - (OCM) paid \$30,600 in penalties after ASIC issued three infringement notices for false or misleading online advertising. Each infringement notice imposed a penalty of \$10,200. (15-321MR)
November 2015	Formax International Market Limited (Formax) – Following concerns raised by ASIC, Formax removed a previously published media released from its group website that falsely claimed its wholly owned subsidiary, Australian Capital Markets Advisory Services (ACMAS), had its AFSL suspended as part of a normal practice that occurs when an enterprise restructures. (15-336MR)
December 2015	IronFX Global Australia Pty Ltd (now Notesco) - Following ASIC enquiries, IronFX Australia took steps to remove references from an associated website and a disclosure document that suggested certain financial services were regulated by ASIC, when this was not the case. (15-395MR)
February 2016	Forex TG Pty Ltd (now Berndale) - ASIC agreed to allow Forex TG to voluntarily suspend its AFS licence following a change of ownership that had occurred in late 2015. Forex TG indicated to ASIC that it intended to recommence its business following the making of a number of changes to the company's name, corporate structure and processes (16-031MR)

March 2016	ASIC warns investors about dealing with Market City International and Brokers500 (16-066MR)
May 2016	Ikon (Australia) Pty Ltd (now MEX Australia Pty Ltd) - Following concerns raised by ASIC, Ikon agreed to separate client money held in compliance with the Corporations Act, from money held for overseas investors. (16-134MR)
June 2016	ASIC releases report 482 detailing the findings of a recent surveillance program and identifying some serious and widespread compliance failures in the retail OTC derivatives industry. (16-197MR)
August 2016	ASIC issued a public warning notice in respect of Titantrade. (16-246MR)
May 2016	ASIC warns investors about services advertised by Top Ten Binary Brokers also known as Top 10 Binary brokers.com (16-142MR)
June 2016	ASIC issues a PWN warning investors about dealing with unlicensed binary option providers GOptions, Porterfinance, Boss Capital, MaxOptions, Bloombex Options, Citrades, RBOptions and OptionsXO (16-189MR)
July 2016	xTrade.au Pty Ltd - As a result of ASIC's intervention, XTrade.au will implement changes to the way it handles client money. (16-213MR)
July 2016	ASIC issued a warning via MR regarding of a dramatic increase in the extent of unlicensed conduct by retail OTC derivative providers seeking to expand their market with new customers for their complex and risky products such as binary options. (16-218MR)
August 2016	Rainbow Legend Pty Ltd – AAT overturns Rainbow Legend Pty Ltd's AFSL cancellation. (see Editor's Note 1 of 15-108MR)
February 2017	Mr Yingie Wang (aka Jay Wang) - ASIC permanently banned Mr Wang, a lawyer and accountant from providing financial services. (17-036MR)
June 2017	Synergy Financial Markets Pty Ltd (now ACY Securities Pty Ltd) - Synergy) has paid a penalty of \$10,800 after ASIC

	issued it with an infringement notice for false or misleading statements on its website. (17-175MR)
August 2017	After an ASIC review Google and Apple agreed to remove over 330 apps that appeared to be unlicensed. 63% were offered by binary option issuers and facilitated trading, 25% were from various signal providers and the rest were controlled by introducing brokers or were apps designed to influence people to trade binary options. (17-257MR)
October 2017	ASIC issued Information Sheet 226 in relation to the pending derivative client money rules (17-338MR)
February 2018	AGM Markets Pty Ltd - On 12 February 2018, ASIC obtained interim orders in the Federal Court of Australia against AGM Markets Pty Ltd (AFS Licensee) and OT Markets Pty Ltd and Ozifin Tech Pty Ltd (Corporate Authorised representatives). ASIC also released a public warning not to deal with AGM Markets and its CARs. (18-036MR)
February 2018	Jana Jaros and Jackson Laurence Malcolm Capper - ASIC permanently banned Jaros and Capper from providing financial services or from engaging in any credit activities after they were convicted and sentenced on charges brought by ASIC in November 2017. (18-034MR and 17-378MR)
April 2018	New retail OTC derivative client money rules commenced on 4 April 2018. ASIC releases Regulatory Guide 212 regarding the rules. The rules impose recordkeeping, reconciliation and reporting obligations on AFS licensees that hold 'derivative retail client money' including monthly reporting to ASIC.
April 2018	DirectFX Trading Pty Ltd - ASIC suspends the AFSL of DirectFX Trading (18-126MR)
June 2018	Vantage Global Prime Pty Ltd – ASIC accepted a CEU from Vantage after it found did not have in place adequate systems and controls to identify, monitor for, prevent and respond to inappropriate use of its confidential client trading information by its employees for their own personal benefit. (18-183MR)
June 2018	ASIC's MoneySmart team runs a binary options campaign on YouTube.

June 2018	ASIC released Report 579 "Improving practices in the retail OTC derivatives sector" following a compliance review of the sector in 2017
October 2018	Direct FX Trading Pty Ltd – ASIC cancelled the AFS licence held by Direct FX Trading Pty Ltd for serious compliance failures. (18-315MR)
November 2018	Berndale Capital Securities Pty Ltd (Berndale) - ASIC cancelled the AFSL of Berndale and banned a former director from providing financial services for a period of six years. (18-363MR)
November 2018	AGM Markets Pty Ltd (AGM) - ASIC cancelled the AFS licence held by AGM for unconscionable conduct and unmanaged conflicts of interest and banned a former director, from providing financial services for a period of eight years. (18-340MR and 18-347MR)
January 2019	Halifax Investment Services Pty Ltd - ASIC suspended the AFS licence held by Halifax Investment Services Pty Ltd until 10 January 2020. (19-005MR)
January 2019	Jade Capital Partners Pty Ltd (Jade Capital) – ASIC cancelled the AFSL of Jade Capital and banned two of its directors, James Clinnick, and Matthew McCrow, a period of four and five years respectively. (19-015MR and 19-040MR)
March 2019	Forex Capital Trading Pty Ltd - On 12 March 2019, ASIC obtained <i>ex parte</i> interim orders in the Federal Court against Forex Capital Trading that restrained the company from removing their assets from Australia, disposing of their property and freezing monies in its bank account, and which prevented the sole director, Shlomi Yoshai, from leaving Australia. (19-062MR)
April 2019	ASIC released a media release warning that some AFS licensees may be breaking overseas laws (19-088MR)
April 2019	Berndale Capital Securities Pty Ltd (Berndale) - ASIC also successfully applied for the appointment of a receiver to Berndale and two related companies due to concerns about client money handling practices. (19-100MR)

August 2019	ASIC released Report 626 which outlines the current state of the retail OTC industry.
August 2019	ASIC released its consultation paper 322 , to introduce restrictions on contracts for difference and binary options via the newly acquired Product Intervention Powers. (19-220MR)
September 2019	<p>The Federal Court made the following orders on 26 September 2019 in respect of ASIC's action Gallop and Mr Wang:</p> <ul style="list-style-type: none"> • declarations of contraventions of financial services laws by Gallop and its related companies; • permanent injunctions restraining Mr Wang from carrying on a financial services business; • an order disqualifying Mr Wang from managing a corporation for 10 years; • an order that Mr Wang pay a civil penalty of \$3 million; and • the winding up of Gallop Asset Management Pty Ltd and Stumac Pty Ltd. <p>(19-260MR)</p>
October 2019	Berndale Capital Securities Pty Ltd (Berndale) - Following the successful application by ASIC the Federal Court ordered the winding up of Berndale and its two related companies. (19-100MR) – refer Editor's Note 1)
October 2019	AGM Markets Pty Ltd - Following the successful application by ASIC the Federal Court ordered the winding up of AGM and its two related companies (18-036MR)
December 2019	Union Standard International Group Pty Ltd - ASIC obtained interim orders in the Federal Court of Australia against Union Standard International Group P/L, Maxi EFX Global P/L and BrightAU P/L (19-373MR).
January 2020	Axicorp Financial Services Pty Ltd – ASIC suspended the Australian financial services license of AxiCorp for four months. (20-019MR)
January 2020	Halifax Investment Services Pty Ltd - ASIC has extended the suspension of the AFS licence held by Halifax Investment Services Pty Ltd until 8 January 2021. (20-003MR)

February 2020	AGM Markets Pty Ltd – Liability decision handed down finding AGM and two CARs had engaged in systemic unconscionable conduct while providing OTC derivative products to retail investors in Australia and that investors had lost over \$30 million as a result of the conduct. (20-048MR)
February 2020	One Tech Media Ltd – Liability judgement delivered by the Federal Court finding that One Tech Media Ltd breached the Corporations Act in relation to the pressure sale of binary options to Australian consumers. (20-025MR)
March 2020	Olive Financial Markets Pty Ltd – ASIC cancelled the AFS licence of Olive Financial Markets (20-101MR)
April 2020	Olive Financial Markets Pty Ltd – ASIC banned Olive's former director, Scott John Morrison, from providing financial services for seven years (20-101MR)
May 2020	ASIC released a paper outlining the effects of the COVID-19 pandemic on Australian financial markets, including data from 12 retail OTC issuers (representing 84% of market share) (20-102MR)
June 2020	Forex Capital Trading Pty Ltd – ASIC cancelled Forex CT's AFS license and banned a Forex CT advisor from providing financial services for a period of 3 years. (20-128MR) (20-151MR)
June 2020	BBY Limited - ASIC has extended the suspension of the AFS licence held by BBY Limited until 30 June 2021, effective 27 May 2020. (20-126MR)
June 2020	One Tech Media Ltd – Penalty judgement delivered by the Federal Court imposed a \$1.8 million penalty on One Tech Media Ltd and permanently banned Eustace Senese from managing corporations or carrying on any financial services business. (20-140MR)
July 2020	Forex Capital Trading Pty Ltd – ASIC commenced civil penalty proceedings in the Federal Court alleging that Forex Capital Trading Pty Ltd (Forex CT) engaged in systemic unconscionable conduct and misleading and deceptive conduct and that its managing director, Shlomo Yoshai, aided and abetted Forex CT and breached his duties as a director. (20-161MR)
July 2020	Union Standard International Group Pty Ltd – ASIC suspended the AFSL of USG (20-164MR)

June 2020	ASIC warned consumers about the existence of a fake copy trading website portraying the ASIC Chair via the ASIC NewsHub .
July 2020	ASIC published a warning to consumers on its MoneySmart website about the risks of trading retail OTC products after meeting persons on dating apps.
July 2020	ASIC warned consumers about Fake Celebrity Endorsements advertisements promoting trading systems such as Bitcoin Evolution/Revolution which mainly click through to landing pages of retail OTC derivative issuers via ASIC's NewsHub .
September 2020	Union Standard International Group Pty Ltd – ASIC cancelled the AFSL of USG (20-216MR)
September 2020	Maxi EFX Global AU Pty Ltd - ASIC successfully obtained an order from the Federal Court of Australia compelling Maxi EFX Global AU Pty Ltd to produce documents in response to an ASIC notice issued to it, pursuant to section 33 of the ASIC Act. (20-210MR)
September 2020	ASIC informed via the MIU retail OTC industry that it is reviewing Corporate Authorised Representative and introducing broker disclosures with retail OTC issuers.
October 2020	AGM Markets Pty Ltd – Penalty judgment ordering the defendants to pay total pecuniary penalties of \$75 million (and pay refunds to former clients).(20-246MR)
October 2020	ASIC made product intervention orders in relation to CFDs. (20-254MR)

Summary of Table

Type	Number
AFSLs suspended	9
AFSLs cancelled	15
Banned persons	17
AAT overturned AFSL cancellations	1
AFS Licence conditions imposed	2
Civil Court Proceedings Commenced	13
Reports or papers written after surveillance or industry data capture	6
Infringement Notices (M&D advertising)	5
Online apps removed from Google and Apple	330+
Youtube clips	3
Winding up (EXAD)	10
Voluntary agreement	10
Injunction action	4
CEUs	5
Public Warning Notice	3
MR warnings/cautions	15
Regulatory Guides	2
Consultation papers	3
New legislation	3
Amended legislation	3