To Whom It May Concern,

As the sole director of Marketech Pty. Ltd. – a company authorised to make a market in derivatives - I am pleased to be given the opportunity to respond to the treasury paper regarding the handling of client money in relation to OTC derivatives.

The collapse of prominent firms in recent times who have dealt in OTC derivatives has been of detriment to the OTC derivatives industry as well as the financial industry as a whole. From a national interest point of view, it has added to a lack of confidence in markets and investing. Of course, worst of all, it has lead to life-long financial detriment to a number of affected clients. Therefore, I unreservedly support Treasury in the introduction of legislation to ensure the security of client monies in relation to OTC transactions.

Notwithstanding my support, a number of proposals presented in the Treasury paper are of concern.

As it stands, the proposals put forward will restrict a firm's ability to utilise client money in order to hedge client positions. This is counterintuitive within a paper that seeks to increase client security. If client money cannot be used to hedge positions then it will kill the Direct Market Model of OTC derivatives and leave only the riskier business model of 'largely unhedged' market making. Treasury should NOT introduce legislation that encourages riskier business practices within the industry. A more suitable model could be similar to exchange traded derivatives (such as futures) where broking firms keep clients funds in segregated accounts and only use client funds that are necessary to satisfy the exchanges margin conditions. In a similar fashion, for OTC derivatives, client funds could be placed in a segregated account and only funds required for hedging the contract can be withdrawn from the segregated account. The practice of utilising client funds for hedging should not be banned altogether.

The paper does not appear to address the major risks of OTC trading and appears to have a lack of understanding about where the risks lie. The biggest example of this, of course, is the encouragement of riskier OTC trading models by encouraging the market made 'position risk' model and killing off the 'non-position risk' DMA model. The paper also needs to address the risks of a) overexposure to a single large client, b) overexposure to a single (or group of stocks) by multiple clients, c) the financial viability of the firm and d) the financial viability of the firm through which the hedging is occurring (usually a prime broker). In my view, these are greater risks to a firm yet they don't appear to be reasonably addressed in the paper. These risks should not be addressed with 'minimum cash requirements' but with ratios, eg, a ratio of the firms Surplus Liquid Funds to a single client position cannot be more than X. Minimum cash requirements will ensure the security of client funds within smaller firms (as they will simply cease to exist!) but will do nothing to protect against the collapse of larger firms.

I support Mr. Andrew Budzinski's (of IC Capital Markets) response to Treasury to the extent that I welcome new legislation into the handling of client monies but the proposals presented in the Treasury paper require revision. Having been a licensed 'market maker' for 8 years, I am more than happy to provide further feedback/advice to Treasury if required.

Yours Sincerely

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