MEDIA RELEASE (23-127MR)

Saxo Capital Markets amends TMDs following ASIC stop orders

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ASIC made eight interim stop orders on 16 May 2023, preventing Saxo Capital Markets (Australia) Limited (Saxo) from issuing some new contracts for difference (CFDs) to retail clients because of deficiencies in their target market determinations (TMDs). The orders were revoked on 18 May 2023, after Saxo amended the TMDs to address ASIC's concerns.

The interim orders prohibited Saxo from issuing eight types of derivatives to retail clients and opening trading accounts for new retail clients to trade in those derivatives. The orders were valid for 21 days unless revoked earlier. The interim orders covered the following derivatives issued by Saxo:

- Single Stock CFDs
- FX CFDs
- Exchange Traded Funds (ETFs) CFDs
- Index CFDs
- Commodity Futures CFDs
- Bond CFDs
- Index Option CFDs
- Cryptocurrency Derivatives.

ASIC was concerned that the TMDs for Saxo's derivative products inappropriately included in the target market:

- retail clients who intend to use CFDs as a 'standalone or core component' of their investment portfolio,
- in some cases, retail clients who have an investment timeframe of up to one year or up to three years, where overnight financing fees charged for such periods may be significant in aggregate and affect the potential to profit from a CFD position, among other risks, and
- for Single Stock CFDs, ETF CFDs and Index CFDs retail clients seeking growth and income, whereas:
    - commonly short-term trading in Single Stock CFDs, ETF CFDs and Index CFDs is inconsistent with a growth return profile objective of a retail client,
    - retail clients will only earn income payments from Single Stock CFDs and ETF CFDs if they hold a long Single Stock CFD or long ETF CFD on the ex-dividend date, and
    - a high proportion of CFD retail clients lose money trading CFDs.

ASIC made the interim orders to protect retail clients from acquiring CFDs from Saxo, where they may not be suitable for their financial objectives, situation or needs. The orders did not prevent Saxo's existing clients from varying or closing their CFD positions.

ASIC reminds financial product issuers that under design and distribution obligations (DDO), they must clearly define target markets for their products appropriately, having regard to the risks and features of their products. Issuers also need to consider how their product will reach the target market and have appropriate distribution conditions in place to ensure the product is directed towards the target market.

To date, ASIC has issued 36 interim stop orders under DDO, including the orders for Saxo CFDs. Of the 36 interim stop orders issued, 31 have been lifted following actions taken by the entities to address ASIC's concerns or where the products were withdrawn, and five remain in place.

Background

ASIC has targeted surveillances underway to check whether product issuers and distributors are complying with DDO. Where firms are not doing the right thing, ASIC can take quick action under DDO to disrupt poor conduct and prevent potential consumer harm.

On 3 May, ASIC called on investment product issuers to 'lift their game' after an initial review found significant room for improvement in how they meet their design and distribution obligations. Report 762 *Design and distribution obligations: Investment products* (REP 762) outlines the review findings and actions taken by ASIC in response (refer 23-115MR).

A CFD is a leveraged derivative contract that allows a client to speculate in the change in value of an underlying asset, such as foreign exchange rates, stock market indices, single equities, commodities or crypto assets.

ASIC's product intervention order for CFDs strengthened consumer protections after reviews in 2017, 2019 and 2020 found that most retail clients lose money trading CFDs (refer 20-254MR). In April 2022, ASIC extended this order for a further five years to 23 May 2027 (refer 22-082MR).

ASIC's Moneysmart website (https://moneysmart.gov.au/) has further information about forex trading (https://moneysmart.gov.au/investment-warnings/forex-trading) and CFDs (https://moneysmart.gov.au/glossary/contracts-for-difference-cfd) .