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Introduction

As a provider of high net worth investment services since 2003, Cantor Fitzgerald Ireland (“Cantor” or the “Firm”) has, often pursuant to client request, provided an introducing broker service and related advice and or execution to clients in regard of Contract for Differences (“CFDs”). Therefore based on our experience and our knowledge of suitable and appropriate clients seeking to avail of this product the Firm believes it important that a submission is made in respect of the Central Bank’s recent consultation paper. The Firm believes that providing suitability and appropriateness measures are applied to protect client’s interests as part of a consumer protection focused culture that it is a product which should continue to be provided in the market. The Firm accepts that the nature of advertising and less scrupulous providers may on occasion result in inappropriate consumers (not the Firm’s clients) transacting in CFDs. However we do not believe that this is remedied by banning CFDs as overseas providers will remain capable of offering services online to Irish consumers.

In order to provide this service to clients the Firm actively reviews providers that have the system and infrastructural capability to deliver this product to clients to ensure that investor protections remain at the heart of the business that we conduct. We have found that smaller providers lack this capability and may seek to engage customers through misleading false offers. Our Firm has a stringent vetting process of clients seeking to utilise CFDs and also applies a robust vetting process to any new CFD product provider and has predominantly used IG Markets for the provision of a CFD service even on occasion to the exclusion of wider group offerings. The firm believes that IG has particular strengths in order management and risk management and reporting of clients positions. While we recognise that risk management and its reporting is particularly important, the Firm would never delegate any aspect of client suitability and appropriateness and operates its own separate process (separate from IG and other Firm products) for client on-boarding. We believe that good systems and an effective platform are essential to risk management of client positions.

The Firm as part of our process undertakes its suitability and appropriateness on underlying clients both prior to establishment of any CFD account and on an ongoing monthly basis. The Firm’s CFD onboarding process considers both suitability factors such as the net worth of the client excluding Principle Private Residence, Risk Profile, Age, Objectives, Profession and Appropriateness together with the client’s previous experience of trading these types of instruments. Based on this information the Firm can reject clients from operating or seeking to open a CFD account and have done so on a number of occasions and also have suggested to clients the typical leverage that should be considered. These processes have proved successful in both restricting clients who don’t meet the necessary criteria from opening and operating an account, ultimately protecting the client, but also recommending clients to use appropriate leverage.

The Firm issues each client with a letter post this assessment with a suggestion as to the appropriate maximum cash investment, a maximum leverage to be utilised and also highlighting the importance of continually monitoring positions. The Firm does not consider its obligations to stop when the client has set up the account. The Firm requires each client to sign a Power of Attorney giving the Firm the ability monitor the clients’ positions and any loss exposures that may be arise as an early warning signal. The Firm engages regularly with clients in this respect and the brokers are obliged to monitor and ensure that positions taken by clients are suitable to their needs. Any issues are immediately escalated to the client but also to Risk and Compliance within the Firm. The Firm has also built an automated suitability tool which considers the capital at risk of each and any losses being sustained across each client’s standard broking account and the

CFD account. The Firm also engages with IG and clients to ensure that margin calls are escalated efficiently to clients in order to make effective decisions.

As noted above our current preferred provider IG are in our opinion best in class across the board in terms of client onboarding, order management, risk management of clients and position reporting. IG provides considerable ability for both Client and Firm to ensure sufficient oversight of clients CFD exposure, position size mitigation and capital preservation. The information provided by IG is used within the Firm's internally developed risk processes to monitor the clients CFD exposure, position size, and leverage and capital position. This is monitored daily and reviewed by management weekly. Therefore for the suitable and appropriate client we believe that in partnership with IG the totality of our service and risk management processes are sufficient to mitigate the concerns expressed in the consultation paper.

However, we understand fully the Central Bank's wider industry concerns and in this regard the Firm believes that implementing Option B or Enhanced Investor Protection Measures would be a welcome addition to the industry particularly to protect the interests of the smaller and less experienced investor which is not a target market for Cantor. The Firm believes that it is critical that suitability and appropriateness is embedded within Firms to ensure that clients where CFDs are not appropriate cannot open accounts and also that clients are restricted to leverage based on experience. Equally it is also important that the Central Bank considers the interests of more experienced, sophisticated investors for whom CFDs are a valued and important additional investment tool. Finally we have some concerns in regard of the law of unintended consequences in regard of an outright ban which we have outlined in further detail below given the ability of firms from other less supervised jurisdictions to offer product in the event of a ban and the ability to police such offerings and services. We think an outright ban of the advertising of the product, as has been implemented in regard of health risk consumer products, should be considered.

We would welcome a joint meeting with the Central Bank of Ireland with other entities such as IG, Goodbody Stockbrokers, Merrion Stockbrokers and Cantor post receipt of consultation paper responses. We believe that this could provide further information to supplement the Central Bank's consideration.

1. Which of the options outlined in this paper do you consider will most effectively and proportionately address the investor protection risks associated with the sale or distribution of CFDs to retail clients?

The Firm believes the correct application of current KYC practice including suitability and appropriateness process combined with the Enhanced Investor Protection Measures, if applied correctly, should ensure a correct level of responsibility across the entire industry in the sale and distribution of CFDs and should ensure that CFDs are only provided to suitable or appropriate clients as applicable. Effectively the Firm via its specific CFD on-boarding process and client management currently addresses many of the risks which the Enhanced Investor Protection Measures seek to address. The Firm would suggest that a blanket prohibition on the Sale or Distribution of CFDs to Retail Clients would not be the most appropriate course of action. Our view is that it is better to have a regulated properly sold product rather than a blanket ban.

Retail clients utilise CFDs for a range of reasons and therefore an out-right ban may not be appropriate. These include:

- i. CFDs allow clients gain investment exposure without necessarily incurring the associated foreign exchange exposure. CFD investors are typically only exposed to foreign exchange risks on the profit or loss on a trade rather than the entire capital cost of the investment. In the recent Brexit vote, holders of Diageo via CFD would have made sizable profits whereas, holders of Diageo which were paid for with euros in a standard cash account, would have lost money. We have included below an example of the variance in return from a standard account and a CFD account.
- ii. Uniquely Irish shares attract 1% stamp duty and UK shares attract 0.5% stamp duty which as a consequence is prohibitive for investors who are trading or hedging their positions in what is their most familiar markets. If undertaking a trading position the savings for the investor are considerable, and as noted allows the client to equally select a local stock over a foreign stock where there may be less familiarity.
- iii. As part of the clients investment needs they may wish to gain access to different markets which may not be available in the standard direct equity trading.
- iv. Clients also consider CFDs to be a cheaper and the more efficient means of trading shares and numerous other financial instruments.
- v. Cantor and IG's CFD offering allows Cantor to advise upon and clients to manage their risk by using stop losses, guaranteed stop losses, limit orders, trigger orders and any loss of these would impact investor's ability to protect their portfolios. The online system provided by IG allows investors and Cantor to monitor and trade in their positions in a real-time and efficient manner. Any wider use of lower standard product providers, arising from a ban, from other jurisdiction would result in less availability of such risk mitigation as Irish citizens may seek to transact in other offshore non-compliant jurisdictions or via other less reputable firms not under the direct supervision of the Central Bank or which facilitates Cantor's oversight.

- vi. A large number of Cantor's retail clients avail of an advisory service when operating CFD accounts. If a ban was to be implemented any clients seeking to continue to avail of CFD services may have to trade via a different jurisdiction and directly with the CFD provider on an execution basis and therefore losing access to an advisory service in doing so. We believe that our clients benefit and value the advisory service.
- vii. A number of clients also may use CFDs to short stocks which would allow clients to hedge their portfolios and again protect portfolio's in a volatile or bear market. While these may appear as a loss overall the client will have offsetting core long term holdings. 90% of options do expire worthless but they are often a time specific more expensive hedging tool.
- viii. There has been a suggestion that if this is an investment tool that sophisticated investors wish to use that such clients, if qualifying, should perhaps consider not being classified as a retail investor. Naturally this would be out of step with Central Bank guidance in regard of professional client opt down, and also can complicate the tax position of the client whereupon investments may be deemed as stock in trade and subject to income as opposed to capital gains tax.

2. In relation to Option 2, please see comments below.

a) Do you agree with the proposal to restrict leverage to 25:1 for retail clients trading CFDs?

The Firm strongly agrees with a proposition of limiting the applicable leverage for retail clients. However, the Firm believes a specific limit of 25:1 leverage ratio for all retail clients transacting in CFDs is too high. The Firm believes that it may be more prudent that the Central Bank instructs Firms to set and demonstrate an upper leverage limitation taking account of intended instruments, appropriate and suitable to the clients experience and wealth. Such limitations should be subject to disclosure to clients upon investment and subject to inspection by the Central Bank including appropriate reports to demonstrate compliance.

Asset Level

- For shares the Firm would typically consider a maximum 10:1 leverage limit for the retail client would be more appropriate. We would only recommend this level for the wealthiest and most experienced clients. We would have a lower level for most CFD clients who have to pass our vetting process in the first instance. We together with our preferred provider IG apply tiered margin for many stocks and this often reduces the leverage to 1.5-4 times leverage, reflecting for example a lower market capitalisation. The Firm would suggest that differing leverage levels could be applied to both large and small cap stocks. Our current average leverage on client accounts is 2.9 times which demonstrates that while we suggest a maximum of 10:1 leverage level we take a number of factors under consideration in looking at the leverage levels for our clients.

- While the Firm's clients do not undertake a significant amount of business in FX, commodity and Equity Index products we would suggest in the use of such products higher leverage may be applicable given the lower likely price move of a currency, commodity or equity index but that where the 10:1 leverage limit is exceeded it is mandatory that stop losses or guaranteed stop losses are utilised such that the client cannot lose more than is in his account.

Client Experience and Net Worth

- Firms should apply differing levels of leverage based on the experience of the client. This should form part of the output of the vetting process, as it does in Cantor today, in addition to a robust and challenging CFD specific appropriateness/suitability assessment prior to allowing the client to open a CFD trading account and there should be mandatory review periods for reviewing the assumptions therein. Firms should monitor and review any CFD losses by client and ensure all is in order on each CFD client account. This also promotes and ensures a compliant, client centric culture.
- As a client's knowledge and experience grows consideration could be given via a formalised structure and sign off as to the rationale for any increase in a client's leverage levels.

Client Net Worth

- The clients net worth and portfolio are relevant in that the issue addressed by suitability is in part the client ability to afford to acquire the leverage position and therefore any losses occurring as a consequence of leverage. By conclusion therefore we assess the client's ability to acquire the total position inclusive of leverage. If the total position is a small percentage of the client's total wealth then greater leverage can be considered provided the client information is up to date and in regard of CFDs there is an even greater requirement than normal to examine the information further.

b) Do you agree with the proposal that retail clients trading CFDs should not be at risk of potentially limitless losses and that firms offering CFDs should be required to put in place negative balance protection on a per position basis?

Yes. The Firm agrees that Retail clients trading CFDs should not be at risk of potentially limitless losses. The Firm believes that the practice of automatic stop losses should be implemented by the CFD providers which cap the loss at the amount of cash available on account on inception. The only circumstance in which a client could lose more is a gap on the stock below the indicated stop level which immediately minimises the number of instances where a client could lose more than the cash invested in the CFD account.

The Firm also understands that IG has the potential to offer a type of account for investors which can cap the losses at the value available in the account, clearly at an additional cost for the client. The Firm believes that such account structure may be suitable for less experienced investors or less wealthy clients than our highest tier of net worth investors.

c) Do you agree with the proposal to prohibit all bonus promotions and trading incentives in relation to CFD client accounts?

Yes the Firm agrees. We believe that the bonus promotions and trading incentives are not appropriate and combined with often inappropriate advertising do not create the correct perception of the high risk and more complex nature of CFDs. The bonus promotions and trading incentives have the ability to incorrectly entice inappropriate clients to trade in these types of products with misperceptions.

d) Do you agree with the proposal to require firms offering CFDs to retail consumers to provide a standardised risk warning to clients disclosing the percentage of active retail CFD clients who suffered a loss of equity during the previous quarter and over the previous 12-month period?

We believe that Firms should prominently show an enhanced disclosure and standardised risk warnings on their websites and mobile experiences. However it remains important that if enhanced disclosure is to be displayed that it facilitates clients being able to pick out key data. If disclosures are of a significant length it may decrease the client's intention to read some key information in relation to the instrument. If CFDs are used for the purpose of hedging we are not convinced that loss of equity is an appropriate metric. We think clear statements demonstrating the costs of CFDs, the impact of leverage and disclosing limits as described herein would be more effective. What could be disclosed is the percentage of accounts used for trading, the percentage for hedging and of those used for trading the % that were loss making in the prior year.

3. Are there further measures which the Central Bank should consider as part of its analysis?

As outlined above the Firm strongly believes that the introduction of Option B Enhanced Investor Protection Measures is the way forward rather than a blanket ban. The Firm believes that the Enhanced Investor Measures will seek to improve protection to retail clients. Following the introduction of these measures the Firm believes that it would be prudent to have an independent third party undertake a follow up thematic review across the industry, perhaps 12-18 months after the implementation of these measures. Post this review a thematic output letter could issue which identifies the good and bad practices requiring Firm's to adopt enhancement measures. This would ensure that the industry takes on board additional enhancement measures and drives improvement. Where gaps and deficiencies remain of a significant scale for individual firms the use of Enforcement would remain an option available to the Central Bank to drive standards further and take appropriate measures with inadequate client protection measures at the heart of their business model.

The Firm also suspects that perceptions of the use of CFDs for shares may be tarnished by advertising of CFDs in regard of other asset types such as FX, indices and other such instruments and other derivatives such as binary options which attract very high leverage and are marketed incorrectly in a fashion that suggests an "easy" route to making exceptional returns. This practice also targets in our view

inappropriate clients. The Firm believes that consideration of segregation of the instruments is important in terms of the regulatory analysis.

We noted from the consultation paper that there are in excess of 550 firms authorised throughout the EU that can offer CFDs to Irish Investors. The Firm would note that this number combined with the 19 currently authorised and 18 with established branches represents quite a significant amount of entities to supervise. The Firm believes that the Central Bank could consider more stringent local presence and/or requirements to meet the client in person to assess suitability/appropriateness to ensure the visibility and oversight of the on-boarding process and also to ensure that all CFD providers/advisers see the need to investment in the client onboarding process.

Finally other aspects that could be considered is a mandatory minimum wealth, years investing in financial markets and a maximum exposure of the client as defined by his cash investment in his CFD account as a percentage of his net worth or equally a ban on advertising CFDs.

4. In relation to the options outlined in this paper, are there any detrimental effects on investors or the markets or unintended consequences that you consider should be taken into account by the Central Bank?

Our concerns mainly arise in regard of an outright ban. These are:

- Retail Investors may continue to seek to transact in these instruments for the reasons outlined and this may have unintended consequences:
 - Wider use of lower standard product providers from other jurisdictions would result in reduced risk mitigation as Irish retail investors may seek to transact in other offshore non-compliant jurisdictions or via other less reputable firms not under the direct supervision of the Central Bank. As a result this may also have wider implications from a competition law perspective where similar restrictions are not implemented in other jurisdictions. As a result of restriction of providers in the market this could allow those remaining to increase charges and possibly operate with less client focus.
 - The use of CFD product providers from other jurisdictions which could operate with higher leverage levels may significantly increase risk levels for Irish Investors
 - Retail investors may seek alternative structures to CFDs which may include synthetic futures by sale and purchase of put and call options respectively. If CFDs are not available as a product for retail clients to trade, other industry participants may look to create further products that deliver a similar result.
 - The introduction of a blanket ban on a leverage product such as CFDs could raise questions as to suitability and appropriateness of other leveraged products across the financial services industry and would require a proportionate approach across similar high risk, complex leverage type products where we believe the current KYC rules, including MIFID II enhancements provide the best form of investor protection.
 - Providers may offer current cash trading on a margin basis as leverage is an attractive facet of CFDs to many retail investors.

- There is always a risk that less compliant entities may seek to move Retail Clients to Professional Client status to address restrictions without carrying out the appropriate considerations of whether a client meets Professional Client status. This is not something which the Firm would ever consider but it may be an unintended consequence of a restriction of retail clients trading in the product. We also would expect that if a ban was implemented for retail clients that certain of these clients may elect to take on professional client status in order to retain the ability to trade in CFDs. This would result in loss of investors' protections such as segregation of client cash. In addition, such a client adopting the Professional Client status could become liable to Income Tax on gains rather than Capital Gains Tax due to the client classification.
- Due to a reduced level of retail clients trading via CFDs there may be a reduction in liquidity in Irish Stock Market.
- Costs of trading may increase for certain retail clients as they would be forced into conventional share trading accounts with higher costs associated.
- Retail clients who had been utilising CFDs will have less ability to hedge their assets and manage FX exposure without the availability of CFDs and may have increased exposures in other products as a result.

5. What do you consider will be the likely effect of the options outlined in this paper on investors and market participants who may hold, use or benefit from CFDs?

In the case of a ban please see our answer to the prior questions.

The Firm sees little downside to the implementation of Enhanced Investor Protection Measures as many reflect the spirit if not the exact rules under which we manage our CFD business. We recommend our suggested approach on certain issues to ensure the entities offering these services manage the appropriate risks and are accountable to the Central Bank.

We believe that that the interests of the various stakeholders are better aligned via Enhanced Investor Protection Measures as:

- Retail investors across the industry will better understand the risks, benefits and costs of CFDs and will no longer be targeted by misleading advertising.
- Firms will have better client on-boarding procedures ensuring better KYC compliance in part by tailoring a specific client on-boarding process in regard of CFDs.
- The extent of leverage risk will be curtailed by client wealth, experience and understanding with clear process required to address the extent of such risk and for some clients the risk will not exceed their investment
- Firms can better advise on the risk management appropriate to the client's account and clients better manage the resulting risk.
- The Central bank can be assured of a clear approach to the marketing of CFDs and the management of CFD clients and most importantly that is the Firm's responsibility to ensure no undue client loss in an easy to account for manner.

6. Examples

1. *Datalex CFD Example: Example of current tiered margining structure and Maximum Leverage permitted.*

IG as CFD provider provides reducing leverage for stocks as position size is increased:

Your aggregate position in this market will be margined in the following tiers:

Tier	Position Size (Shares)	Margin
A	0 - 3,200.00	25 %
B	3,200.00 - 20,000.00	40 %
C	20,000.00 - 44,800.00	50 %
D	44,800.00+	75 %

IG as CFD provider provides reducing leverage for stocks as position size is increased

- A holder of Datalex would achieve a maximum leverage of 4 times if he/she owned up to 3,200 shares (€12,480 of Datalex shares).
- A holder of 20,000 Datalex shares would achieve leverage of 2.65 times (€78,000 of Datalex shares)
- A holder of 100,000 Datalex shares would achieve leverage of 1.63 times (€390,000 of Datalex shares)
- As the above example shows, the tiered margining system restricts the overall leverage in this stock. The rule is the bigger the position, the less leverage available.

2. *Diageo Example: Variation in return examples*

We have set out a worked example below to demonstrate the variation in return on the basis of a normal share trade versus a CFD trade. As can be seen below adverse FX movements can impact investment returns significantly. In the example a retail client investing in a standard a/c only gets a Euro return of €990 while the CFD client gets a return of €3,532. Retail clients investing in standard a/c's are very exposed to adverse FX movements when buying shares in a foreign currency compared with CFD clients who are only exposed to FX movements on the profit/loss on a position.

Standard Stockbroking a/c:

- Client bought 1000 Diageo on 22/6/16 @ £18.48 costing £18,480. Investor settles in Euro €24,156 (EUR/GBP rate 0.765)
- Client sells 1000 Diageo on 6/7/16 @ £21.50 for £21,500. Investor settles in Euro €25,146 (EUR/GBP rate 0.855)

Euro Profit on trade €990

CFD a/c:

- Client bought 1000 Diageo on 22/6/16 @ £18.48 costing £18,480.
- Client sells 1000 Diageo on 6/7/16 @ £21.50 for £21,500.

GBP profit of £3020 when converted to euro (EUR/GBP rate 0.855) profit would be €3532

Euro Profit on trade €3,532