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# ASIC targets derivatives providers over client money use

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## MELBOURNE, Aug 7 AAP

August 07 2009, 5:12PM

The corporate watchdog is contemplating closing a loophole that allows providers of over-the-counter (OTC) derivatives to use client money for any purpose and exposes clients to counterparty risks.

The Australian Securities and Investments Commission (ASIC) has called for better disclosure of the use of client funds by financial service licensees dealing in OTC derivatives, such as contracts-for-difference (CFDs).

A CFD is an agreement to exchange the difference in value of a particular asset between the time at which a contract is opened and the time at which it is closed.

The high-risk derivative instruments are typically used by sophisticated investors taking geared, short-term positions in volatile markets, and can be used to trade equities, indices, foreign exchange and commodities.

An ASIC consultation paper, released on Friday, details how the client agreements of many derivatives licensees can contain a broad authorisation for the licensee to use client money for any purpose, including meeting the licensee's trading obligations for other clients.

ASIC said investors could lose all of their money even if they were not in default.

"A shortfall could arise if the issuer used the money for trading for another client but could not obtain that money from the other client or cover it from its own funds," the regulator said in a statement.

"A shortfall could also arise if the issuer uses money for its own purposes and then becomes insolvent."

IGMarkets Australia chief executive Tamas Szabo said he welcomed the ASIC move as it would give some integrity to the CFD industry by addressing an issue that was unique to Australia.

"In the UK we were never allowed to use client funds for our own purposes, whereas in Australia it was quite unique that we were," he said.

"We do not use client funds to meet trading obligations and we do not use client funds for our own purposes unlike other CFD providers," he said.


CFDs were introduced into the Australian market in 2002 by global players IGMarkets and rival CMC Markets and are a small but rapidly growing segment of the local trading market.

Investment Trends principal Mark Johnston said few stock brokers and almost no financial planners advise on CFDs that require investors to take out a margin loan and become susceptible to margin calls if investments decline in value past a pre-determined level.

"(The market) is increasingly overlapping with the more traditional margin lending market, with one in five margin-lending clients now using CFDs as well, and 77 per cent of CFD traders also have an active margin loan," Mr Johnston said.

By Alison Bell

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