

# PRODUCT DISCLOSURE STATEMENT

**FAIR  MARKETS**

**FairMarkets Trading PTY LTD**

**ACN: 159 166 739**

**AFSL: 424122**

**Last Updated: 30 July 2018**

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# 1. INTRODUCTION

## 1.1 Important Information

This Product Disclosure Statement (**PDS**) has been prepared and issued by FairMarkets Trading Pty Ltd (ACN 159 166 739) (**FairMarkets, we, us or our**). FAIRMARKETS holds Australian Financial Service Licence No. 424122 (**AFSL**). This PDS provides you with key information about our financial products being over the counter derivatives, being margin foreign exchange contracts (**Margin FX Contracts**) and contracts for difference (**CFDs**).

Please note that the information contained in this PDS does not constitute a recommendation, advice or opinion and does not take into account your individual objectives, financial situation, needs or circumstances. You should consider our Products and the information in this PDS having regard to your objectives, financial situation and needs, and should consult with professional advisers, before entering into any Products with us. We also recommend that you also obtain independent taxation and accounting advice in relation to the impact of our Products on your particular financial situation. The taxation consequences of Margin FX Contract and CFD transactions can be complex and will differ for each individual's financial circumstances, and your tax adviser should be consulted prior to entering into a Contract with us.

Our Products are complex, leveraged and speculative and may not be suitable for you. Their prices, and the prices of the Underlying Instruments, may fluctuate rapidly and widely because of events or conditions which may not be foreseeable and cannot be controlled.

FAIRMARKETS does not guarantee the investment performance of our Products. Past performance is no indication or guarantee of future performance.

This PDS, the Client Agreement and Financial Services Guide (**FSG**) are important documents. You should read this PDS, the Client Agreement and the FSG in their entirety before making any decision to enter into a financial product with us. A copy of this PDS, the Client Agreement and the FSG can be downloaded from our website at [fair.markets](http://fair.markets).

The information in this PDS is current and dated 30 July 2018. FAIRMARKETS may issue a supplementary or replacement PDS as a result of certain changes, which shall be available on our website or shall be distributed in electronic form as required. Please note that the Australian Securities and Investments Commission (**ASIC**) takes no responsibility for the content of this PDS.

If we ask you for your personal information to assess your suitability to trade our Products and we accept your application to trade our Products, this is not personal advice or any other advice to you. You must not rely on our assessment of your suitability since it is based on the information you provide, and the assessment is only for our purposes of deciding whether to open an Account for you. You may not later claim you are not responsible for your losses merely because we have opened an Account for you after assessing your suitability. You remain solely responsible for your own assessments of the features and risks and seeking independent financial advice on whether our Products are suitable for you.

## 1.2 Contact Information

### FairMarkets Trading Pty Ltd

Address: Level 10, 20 Martin Place, Sydney NSW 2000

AU Telephone: + 61 2 8607 8364

International: +1 (616) 691 5600

Email: support@fair.markets

Website: www.fair.markets

### 1.3 Warning

The Products offered by us in this PDS are derivatives as defined in the Corporations Act. Derivatives and foreign exchange contracts are complex and high-risk financial products. Our Products are highly leveraged and carry significantly greater risks than non-gearred investments, such as direct investment in shares. You should not invest in our Products unless you properly understand the nature of these Products and are comfortable with the attendant risks. You should obtain independent financial, legal, taxation and other professional advice prior to entering into a Contract to ensure this is appropriate for your objectives, needs and circumstances, and in relation to the impact of any gains or losses on your particular financial situation.

You may lose substantially more than your initial investment. You may incur losses to the extent of your total exposure to us and any additional fees and charges that apply. These losses may be far greater than the money that you have deposited into your Account or are required to deposit to satisfy Margin Requirements.

It is important that you understand that when you enter into a Product you are not trading in (and do not own or have any rights to) the Underlying Instrument.

### 1.4 Anti-Money Laundering Legislation

We may require further information from you from time to time to comply with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)* and *Anti-Money Laundering and Counter-Terrorism Financial Rules 2007 (Cth)*. You undertake to provide us with all additional information and assistance that we may reasonable be required to comply with the AML/CTF Laws.

We may pass on information collected from you and relating to transactions as required by the AML/CTF Laws or other Applicable Laws and regulations and are under no obligation to inform you we have done so. We may undertake all such anti-money laundering and other checks in relation to you (including restricted lists, blocked persons and countries lists) as deemed necessary or appropriate by us, and we reserve the right to take any action with regard thereto with no liability whatsoever therefore.

You also warrant that:

- A. the funds in your Account did not originate from trafficking drugs, abduction, or any other criminal activity, and your investment or dealing in those funds does not break the Applicable Laws and the law in your country of residence;
- B. you are not aware and have no reason to suspect that:
  - i. the monies used to fund your transactions have been or will be derived from or related to any money laundering, terrorism financing or other illegal activities, whether prohibited under Australian law, international law or convention or by agreement;
  - ii. the proceeds of your investment will be used to finance any illegal activities; and
- C. neither you nor your directors, in the case of a company, are a politically exposed person as the term is used in the AML/CTF Laws.

### 1.5 Jurisdiction



This PDS is not intended to and does not constitute an offer or invitation, directly or indirectly, in any place outside Australia where or to any person to whom it would be unlawful to make such an offer or invitation or require the PDS or any other document to be lodged or registered. The distribution of this PDS in any jurisdiction outside Australia may be restricted by law of the places where it is distributed and therefore persons who come into possession of this PDS should seek advice on and observe any such restrictions. Any failure to comply with such restrictions may constitute a violation of those laws.

Should you gain access to this PDS in a restricted jurisdiction, you should observe such restrictions. This PDS does not constitute an offer or solicitation to anyone in any jurisdiction in which such offer is not authorised or to any person to whom it is unlawful to make such offer or solicitation.

If you are a person intending to deal or dealing with FAIRMARKETS, you should note:

- A. the law governing your dealings with us is the law of New South Wales and the Commonwealth of Australia;
- B. your rights and obligations as set out in the Client Agreement;
- C. moneys which you deposit with us are not loans to us, and will be regulated by the Australian Client Money Rules; and
- D. any references to times are AEST times, unless stated otherwise.

Further, it may be illegal to deal or trade Margin FX Contracts and CFDs in your jurisdiction via the internet. If that is the case, you will not be allowed to open an Account with FAIRMARKETS. It is your responsibility to comply with the national laws and regulations of your country of domicile.

## 2. REGULATORY BENCHMARK DISCLOSURE

### 2.1 Benchmarks for our Products

ASIC has developed seven (7) disclosure benchmarks for OTC derivatives, to assist retail investors better understand the risks and advantages associated with these products. This table below sets out the benchmark and the information which describes how we deal with the benchmarks. More information about this disclosure benchmarks can be found in Regulatory Guide 227:

Benchmark	Does and how does FAIRMARKETS meet this benchmark?
<p><b>Client Qualification and Suitability</b></p> <p>Addresses the issuer's policy on investors qualification for trading.</p>	<p>Yes.</p> <p>Trading in our Products is not suitable for all investors because of the significant risks involved. FAIRMARKETS will assess client qualifications and suitability for our Products when you apply to open an Account. We maintain and apply a written policy which sets out the minimum qualification criteria that prospective retail clients need to demonstrate before we will open an Account for them. FAIRMARKETS also maintains a written policy/procedure to ensure such criteria are properly applied, and unsuitable retail clients are not accepted. We also maintain records of our assessments.</p> <p>Further information can be found in Section 7 of this PDS.</p>
<p><b>Opening Collateral</b></p>	<p>No, to the extent that this benchmark requires that a limit of \$1,000 to be accepted for opening payments made by credit cards, we accept credit</p>

<p>Addresses the issuer's policy on the types of assets accepted from investors as opening collateral</p>	<p>card payments for more than \$1,000 as initial funding in order to provide flexible payment options to clients.</p> <p>Further information can be found in Section 3.22 of this PDS.</p>
<p><b>Counterparty Risk – Hedging</b></p> <p>Addresses the issuer's practices in hedging its risk from client positions and the quality of this hedging</p>	<p>Yes.</p> <p>We maintain a written policy to manage our exposure to market risks from client Positions. This includes the factors we take into account when determining if hedging counterparties are of sufficient standing and sets out the names of those hedging counterparties.</p> <p>See Section 5.12 and up to date hedging policy on our Website.</p>
<p><b>Counterparty Risk – Financial Resources</b></p> <p>Address whether the issuer holds sufficient liquid funds to withstand significant adverse market movements</p>	<p>Yes.</p> <p>FAIRMARKETS maintains and applies a policy for monitoring compliance with its AFSL financial requirements and to ensure it holds sufficient net tangible assets and sufficient financial resources to withstand significant market movement.</p> <p>Please see Section 5.13 for more information.</p>
<p><b>Client Money</b></p> <p>Addresses the issuers policy on client money</p>	<p>Yes.</p> <p>We have a well-defined Client Money policy. These moneys are held and used in accordance with the Australian Client Money Rules.</p> <p>Please see Section 6 for more information.</p>
<p><b>Suspended or Halted Underlying Assets</b></p> <p>Addresses the issuers practices in relation to investor trading when trading in the underlying asset is suspended or halted</p>	<p>With the exception of Margin FX Contracts where there is no suspension or halting of the Underlying Market, we do not allow new Positions to be opened when the Underlying Market is halted or suspended.</p> <p>Please see Section 5.7 for more information.</p>
<p><b>Margin Calls</b></p> <p>Addresses the issuers practices in the event of client accounts entering into margin call</p>	<p>Yes.</p> <p>FAIRMARKETS maintains a written policy in relation to its margining practices, and makes Margin Calls through the Trading Platform.</p> <p>It is your responsibility to manage and monitor your open Positions, and available Margin with us and to ensure that you meet your Margin obligation.</p> <p>We maintain and apply a clear policy in relation to minimum Margin Requirements and our rights including to close out Positions.</p> <p>Please see Section 8 for further information.</p>

### 3. PDS SUMMARY

#### 3.1 What do the terms in this PDS mean and how do I interpret it?

A full list of defined terms is available in Section 21.

#### 3.2 Who is FairMarkets Trading Pty Ltd and who is the issuer of this PDS?

FairMarkets Trading Pty Ltd (“**FairMarkets**”) is a Company incorporated in Australia and is the holder of an Australian Financial Services Licence No 424122. FAIRMARKETS is a wholly owned subsidiary of Navitas Investments LLC (“**Navitas**”), a company duly incorporated in the state of Michigan, United States of America.

FAIRMARKETS is the issuer of this PDS and the provider of the Products.

#### 3.3 What financial products do we provide?

Our Products are OTC derivatives, being Margin FX Contracts and CFDs. You can find further details in section 3.5 and section 3.6 below.

#### 3.4 What type of account can I open?

We have two types of Accounts available for our clients:

- A. Position Based Account; and
- B. Transaction Based Account.

We may offer other types of Accounts to our clients from time to time, and/or change the features of certain types of Accounts from time to time.

Please refer to our Website for details on the types of Accounts that you may open with us.

#### 3.5 What is a Margin FX Contract?

A Margin FX Contract is an agreement under which you may make a profit or incur a loss arising from fluctuations in the price of the Contract. The price of our Margin FX Contracts is based on the price of an Underlying Instrument being the price of one currency relative to another.

Margin FX Contracts differs from spot and forward foreign exchange trading in that they are legally classified as derivatives rather than foreign exchange contracts, and are cash settled (i.e. no physical delivery is available). **You do not own or have any interest or right to that Underlying Instrument or have the ability to trade it on an exchange by entering into a Margin FX Contract.**

By entering into a Margin FX Contract, you are either entitled to be paid an amount of money, or required to pay an amount of money, depending on movements in the price of the Margin FX Contract.

The amount of any gain or loss made on a Margin FX Contract will be the net of:

- A. the difference between the price of the Contract when your Position is opened and the price of the contract when the Position is closed;
- B. any Swap Charges or Swap Benefits relating to the Contract; and
- C. Commissions charged for the Account (if applicable).

You should consider the effect of leverage applied to your Contracts on your gains and losses. Please refer to Section 5 further information.

The balance in your Account will also be affected by other amounts you must pay to us in respect of your Account such as interest on debit balances.

### **3.6 What is a CFD?**

A CFD is an agreement which allows you to make a profit or loss from fluctuations in the price of an Underlying Instrument. **You do not own or have any interest or right in the Underlying Instrument or have the ability to trade it on an exchange by entering into a CFD.**

By entering into a CFD, you are either entitled to be paid an amount of money, or required to pay an amount of money, depending on movements in the price of the Underlying Instrument.

The amount of any gain or loss made on a CFD will be the net of:

- A. the difference between the price of the CFD when your Contract is opened and the price of the CFD when the Contract is closed;
- B. any Swap Charges or Swap Benefits relating to the CFD;
- C. any Rollover Charges or Rollover Benefits relating to the CFD;
- D. any Commissions charges relating to the CFD (if applicable); and
- E. Administration Charges.

You should consider the effect of leverage applied to your Contracts on your gains and losses. Please refer to Section 5 further information.

The balance in your Account will also be affected by other amounts you must pay to us in respect of your Account such as interest on debit balances.

We offer CFDs based on the following Underlying Instruments:

- A. Gold and silver (Bullion CFDs);
- B. Futures Based CFDs;
- C. Commodity CFDs;
- D. Index CFDs;
- E. Interest rate CFDs; and
- F. Other index futures.

### **3.7 What is a Position/Contract?**

A Position (or Contract) is a Margin FX Contract or CFD entered into by you with us under the Agreements.

A Position is opened by either buying (going long) or selling (going short) a Margin FX Contract or CFD.

You go “long” when you buy a Margin FX Contract or CFD in the expectation that the price of the Underlying Instrument to which the Margin FX Contract or CFD is referable will increase, which has the effect that the Margin FX Contract or CFD price will increase.

You go “short” when you sell a Margin FX Contract or CFD in the expectation that the price of the Underlying Instrument to which the Margin FX Contract or CFD is referable will decline, which has the effect that the Margin FX Contract or CFD price will decline.

A Position in respect of a Margin FX Contract or a CFD is open until it is closed, and the amount of profit or loss to you can then be calculated.

How an order is closed will depend on what type of account you hold with Us. If you hold a Position Based Account, where you place a Position, any related Orders you have placed will be netted.

If you hold a Transaction Based Account, and you hold a Position, entering a Position in the opposite direction will not cancel that trade, rather you will hold Positions in both directions.

For Futures Based CFDs, once a Contract hits its Expiry Date, it will be automatically “rolled” over to a new Contract. Before the applicable Expiry Dates, you may give instructions to request to close, or we can exercise our rights to close as set out in clause 12.1 and clause 12.2 of the Client Agreement.

### **3.8 What is a Margin FX Contract or CFD issued “over the counter”?**

“Over the counter” or “OTC” means that you do not trade in financial products on an exchange or a regulated market. Rather, it is a bilateral transaction between you and us. This means you can only enter into contracts with us.

You do not have the protections normally associated with trading on a regulated market.

It is not possible to close a Product by giving instructions to another provider, broker or Australian financial services licensee.

### **3.9 What charges are payable when dealing in our Products?**

The common fees and charges you will incur when dealing in our Products may incorporate any or all of the following:

- A. Swap Charges;
- B. Rollover Charges;
- C. Interest applied to debit balances in your Account;
- D. Commissions;
- E. Dormant Account Fees (if applicable); and
- F. Administration Charges.

In addition, we will apply a bid/offer spread in respect of our Products, which will also affect the profits or losses you make when dealing in these Products.

Please refer to Section 9 for further information.

### **3.10 How do we determine the prices of Margin FX Contracts and CFDs?**

**Margin FX Contracts:** Our prices for Margin FX Contracts are calculated by applying a markup to the price for the Underlying Instrument most recently quoted to us by one or more third party providers.

**CFDs:** Our price for CFDs are calculated by applying a markup to the price of the Underlying Instrument quoted to us by one or more third party providers.

### **3.11 What is slippage?**

Slippage is the difference between a requested price of an Order and the price at which the Order was executed or filled.

A gap in the markets occurs when the price of a Product makes a sharp move up or down with no trading occurring in between or when the market closes at different rate to when it opens again.

There are two (2) common types of slippage:

- A. when a market gaps, either over the weekend or after a news event (like payroll figures or interest rate decisions); and
- B. when a price is clicked on and has substantially changed in the time it took to get back to the executing bank or broker (latency).

FAIRMARKETS recognises that latency is simply a part of the nature of using the internet so will permit slippage (variance between the Market Order price and the actual market price upon receipt of the Order) of one pip both in FAIRMARKETS's favour and out of FAIRMARKETS's favour. This means that whether FAIRMARKETS is in or out of the money, we will still fill this Order for you.

### **FAIRMARKETS's management of Order execution**

When utilising our Trading Platform (MT4 trading platform) "instant" Orders (the default setting), instead of "market" Orders (which permit slippage but reduces risk of re-quotes), clients can manage their downside risk of slippage through a configurable setting "locally" (by inputting the maximum "deviation" from current "local" bid/offer price struck). This totally controls the acceptable slippage which the client is allowing the Order to be filled at the level of slippage between the market price which FAIRMARKETS has on its execution server and actual receipt of the Order.

If a client does not want any slippage whatsoever if out of the money, then they can manage this downside risk by a deviation setting of less than one (1) pip i.e. zero.

### **3.12 Trading hours**

Our Trading Platform market hours can be summarised below:

Market Hours (EST)

Open: 17:00 (Sunday)

Close: 16:45 (Friday)

This means that you are able to view live prices and place live Orders during these hours. You may still access the Trading Platform and view your Account, market information, research and our other services outside to these hours. However, there will not be any live prices or trading. We will provide services to you outside of these hours at our sole discretion. Opening hours of our Products may vary within these times, please check our Trading Platform for further information on opening hours for each Contract.

Our trading support desk is open twenty-four (24) hours while the relevant Underlying Market is operating.

### **3.13 If there is little or no trading going on in the Underlying Market for an asset, can you still trade that Product?**

We will halt client trading when:

- A. a trading halt exists for the Underlying Instrument;
- B. trading in the Underlying Instrument has been suspended through an exchange or otherwise;

- C. the Underlying Market is closed; or
- D. we consider it necessary, such as due to gapping or illiquidity.

### 3.14 What Order types does FAIRMARKETS offer?

FAIRMARKETS offers different types of Orders through the Trading Platform. You will be able to find information about Orders that apply to you on the Trading Platform when you log in. You should note that the Stop Loss Orders and Limit Orders are non-guaranteed Orders.

The price at which we accept an Order to trade will generally be on the basis of filling the full volume of the Order in one Contract where possible. Partially filled Orders will be filled as soon as the opportunity arises. The type of Orders and how they may be filled, if at all, will depend on the rules of the exchange where the Underlying Instruments are being traded and the pricing model you have selected. For some Contracts that you choose to trade, there may be a minimum trade value or other restrictions (e.g., pricing) that relate to a particular market.

FAIRMARKETS has complete discretion on whether to accept and execute any Order requested.

If an Events of Default specified in the Client Agreement occurs, we may impose a limit on the number of open pending Orders of each Account to prevent the degradation of the Trading Platform performance of all other clients.

You should discuss the operation of these Order types with one of our representatives, try them via the Demo Accounts, and read the user guide available on the Trading Platform. You should also refer to our Client Agreement with respect to the operation of these order types.

All Orders will remain in effect until one of the following occurs:

- A. the Order has been cancelled by you or us;
- B. the Order is executed by us;
- C. we no longer provide a quote for that particular Product; or
- D. the relevant open Position to which the particular Order relates is closed by you or us.

<b>Market Orders</b>
A Market Order is an Order to buy or sell at the current market price as soon as possible, i.e. if the market is closed, the Order may not be entered into until the Underlying Market re-opens.
<b>Stop Loss Orders</b>
A Stop Loss Order allows you to specify a price at which you wish to close out or open a Contract. We will execute a Stop Loss Order when: <ul style="list-style-type: none"> <li>• for a buy-order: the offer price reaches the order price; or</li> <li>• for a sell-order: the bid price has reached the order price.</li> </ul> <p>We note that Stop Loss Orders are not guaranteed, and the execution of such Orders will depend on market volatility and liquidity. You cannot assume that you will always be able to have a Stop Loss Order and FAIRMARKETS has absolute discretion in determining whether to accept a Stop Loss Order. A Stop Loss Order is triggered automatically when the stop loss price is reached. Once the stop loss price is reached, the Stop Loss Order becomes a Market Order to buy or sell (depending on your instructions). Due to market volatility and liquidity, if it is not possible to fill your Stop Loss Order at the price you requested, FAIRMARKETS will fill the Stop Loss Order at the nearest available price.</p>

The Stop Loss Order could be activated by a short-term fluctuation in the markets, or in a fast-moving market, the price at which the trade is executed could be much different from the Stop Loss Order price. This is known as “gapping” and is due to market movements during the time it takes to open or close Contracts.

You acknowledge and agree that under the Client Agreement we may impose a Stop Loss Order on one or more of your Contracts.

***Example of a Stop Loss Order***

If you wish to speculate that the price of US30 will decrease and you only want to lose approximately USD\$200 if you are incorrect in this speculation, you can open a 1 lot Contract at the price of USD\$19,871 and set the Stop Loss Order at USD\$20,071 (i.e. USD\$19,871 + USD\$200). If the price of US30 does not decrease but continues to appreciate, and the Contract is closed at USD\$20,074 rather than USD\$20,071 because the price of USD\$20,071 is not available at the time of closing due to the rapid movement in price, the Contract in this example will then generate a loss of USD\$203.

**Limit Orders**

A Limit Order may be used by you to either open or close a Contract at a predetermined price that is more favourable to you than the current market price. We will execute your Limit Order when:

- for a buy-limit order: the offer price has reached the Order price; or
- for a sell-limit order: the bid price has reached the Order price.

Once the Limit Order price is reached, the Limit Order becomes a Market Order. Similar to Stop Loss Orders, Limit Orders are not guaranteed, and the execution of such Orders will depend on market volatility and available liquidity.

***Example of a Limit Order***

If you want to speculate that the price of gold will decrease after hitting three-month peak price, instead of waiting for the market to reach this price, you place a sell Limit Order at USD\$1,300.00. This Order will trigger a sell trade once the price of USD\$1,300.00 is reached or higher. When the price of gold appreciates above USD\$1,300.00 and immediately changes from USD\$1,299.50 to USD\$1,300.50, the sell trade will be triggered due to the price movement and you will receive a fill price of USD\$1,300.50 instead of USD\$1,300.00.

**3.15 What are the Minimum Trading Size, the Maximum Trading Size and the minimum balance to open an Account?**

The size of your Contract must exceed the relevant Minimum Trading Size and must not exceed the relevant Maximum Trading Size, each as specified on the Trading Platform, and may be changed from time to time.

The minimum balance to open an Account is:

- A. AUD\$250 or its currency equivalent for Australian Clients;
- B. USD\$100 or its currency equivalent for Foreign Clients.

The above minimum balance required to open an account may be varied at our discretion.

**3.16 How do you deal in Products with us?**

You may place requests for dealing in our Products via the Trading Platform through a computer or other device with which the Trading Platform is compatible.



We will not accept request for Orders over the phone. Also, we will not accept requests for Orders from you through any other means, such as email, unless we have previously agreed with you to do so.

It is possible for a third party to place Orders on your behalf provided that a written and executed Power of Attorney or Authorised Person authority has been received and accepted by us.

### **3.17 When is a Contract formed?**

A quote given to you by one of our traders is not an offer to contract. If you indicate that you wish to trade at the price quoted to you, you will be deemed to be making an offer to trade at the quoted price and our trader will be entitled to confirm or reject that offer.

Your clicking 'buy' or 'sell' on the Trading Platform will send a message to us indicating that you wish to trade on the terms and conditions indicated. This message will constitute an offer by you to buy or sell at the price and trade size chosen. If we accept your offer, the information about your offer to trade will appear on the Trading Platform. Your Order will not have been placed and no Contract will come into existence until this information is available on the Trading Platform. If the information about your offer to trade does not appear on the Trading Platform within two (2) minutes, you must notify us immediately. If you do not notify us, you will be deemed to have agreed only the transactions recorded by us. Similarly, if you dispute the contents of any transaction information sent by us to you, you must notify us immediately upon receipt by telephone or email, if you do not, the transaction recorded by us will be deemed to have been agreed by you.

### **3.18 What are "long" and "short" Positions?**

You can take both 'long' and 'short' Positions. If you take a long Position, you profit from a rise in the price of the Underlying Instrument, and you lose if the price of the Underlying Instrument falls.

Conversely, if you take a short Position, you profit from a fall in the price of the Underlying Instrument and lose if the price of the Underlying Instrument rises.

### **3.19 How do you request to close out a Position?**

You can request to close a Position by selecting a Position in the Trading Platform and clicking the 'Close' button. However, please note that we may not be able to allow you to close a Position at a particular time and/or at the particular price, for example, without limitation, due to gapping or illiquidity.

### **3.20 What is Margin?**

To place a trade that creates an open Position you are required to pay us, or have in your Account, the Margin for that trade as calculated by us (**Initial Margin**).

In addition to the Initial Margin, you have a continuing obligation in relation to Margin in respect of all open Positions on your Account.

Margin Requirements will fluctuate with the value of the Underlying Instrument on which the Contract is based. Further, where you deal in a Contract that is denominated in a currency other than the Base Currency of your Account, your Margin Requirement may also be affected by fluctuations in the relevant foreign exchange rate.

For detailed information please refer to Section 8 for further information.

### **3.21 What is a Margin Call?**

A Margin Call is a call on you to top up the amount of money you have in your Account as Margin.

You can monitor your Margin Requirements using the Trading Platform (on the MetaTrader 4 (MT4) platform, we inform you through the Margin alert icon) or otherwise by contacting us.

### **3.22 How are payments made in and out of your account?**

We offer a number of payment options for our clients to open and fund their Accounts and to meet Margin Calls. The full list of current payment options is available on our Website.

All funds must be cleared funds before they are treated as satisfying a Margin Call or can be made available for you to use in dealing in Products.

We will use all reasonable efforts to process your withdrawal using the same payment option you have used to fund your Account. Where this is not possible for any reason, we will pay you through electronic transfer.

You agree and acknowledge that we may ask any third party used to fund an Account to verify their identity and we may refuse to accept or return any payment of money from any third party or from any account of any third party. You further agree and acknowledge that we do not accept any liability or responsibility for any loss, cost or expense incurred or suffered by you in connection with such non-acceptance or return, including because you are subsequently in default of your obligations to us.

Please note that your preferred method of funding is entirely a matter for you as we do not provide personal financial product advice that takes into account your personal circumstances.

### **Benchmark 2 – Opening Collateral**

We only accept cash or cash equivalent as opening collateral or funding of your Account.

FAIRMARKETS accepts funds deposited through online banking facilities and credit card payments. No other financial products or properties will be accepted as collateral to open an Account.

We do not encourage the use of borrowed funds to fund the Products. We attempt to limit the use of credit cards to fund an Account but note that with the advent of Visa and Mastercard Debit Cards it is not possible for us to distinguish between a debit and credit card. For this reason, we have not adopted the Opening Collateral Benchmark suggested by ASIC in Regulatory Guide 277 as it would impede your ability to use debit cards to fund your Account.

However, we do limit credit card funding to a maximum of \$5,000 per transaction and no more than \$20,000 within a thirty-day period. In addition, funds can only be returned after thirty (30) days of a credit card deposit by wire transfer.

### **3.23 Do you receive interest on moneys held in your Account or pay interest on moneys you owe to us?**

We do not pay interest on credit balances in the currency ledger on your Account.

If there is a debit balance in your Account after the Margins for our Products have been taken into account, (i.e. you owe money to meet the Margin Requirements), you will pay us interest on the debit balance.

The relevant rates of interest are determined by us at our discretion. Any amounts of interest payable to us will be deducted from any interest payable to you.

Further, if you fail to make any payment required under the Client Agreement when it falls due, interest will be charged (and you will pay interest) on the outstanding sum at the Australian Taxation Office (ATO) general interest charge (GIC) rate, which can be found on the ATO website and is updated on a quarterly

basis. Interest accrues and is calculated daily from the date payment was due until the date you pay in full and is compounded daily.

### **3.24 What happens if you hold a position overnight?**

When you hold a Position or Positions overnight in a Product (other than a Futures Based CFD) they will be rolled to the next Business Day at 17:00 New York Time, which will result in you paying a Swap Charge or receiving a Swap Benefit.

No Swap Charge is paid, or Swap Benefit is received in the case of Futures Based CFD; but there will be a Rollover Charge or Rollover Benefit.

For further information, please refer to Section 9 for further information.

### **3.25 What are the key risks of Margin FX Contracts and CFDs?**

Our Products are OTC derivative products that are complex, highly leveraged and carry significantly greater risk than non-g geared investments.

You may lose substantially more than the initial investment. You may incur losses to the extent of your total exposure to us and any additional fees and charges that apply. These losses may be far greater than the money that you have deposited into your Account or are required to deposit to satisfy Margin Requirements.

It is important that you understand that when you enter into a Product you are not trading in and do not own or have any rights to the Underlying Instrument.

You should obtain your own independent financial, legal, taxation and other professional advice as to whether our Products are an appropriate investment for you.

Please refer to Section 5 for further information.

### **3.26 What are the taxation implications of entering into our products?**

The taxation consequences of dealing in our Products depend on your personal circumstances. Some general taxation consequences are set out in Section 12 for further information.

The taxation consequences can be complex and will differ for each individual's financial circumstances. We recommend that you obtain independent taxation and accounting advice in relation to the impact of Margin FX Contract and CFD transactions and products on your particular financial situation.

### **3.27 How do you open an Account?**

Before you begin dealing in our Products, please read this PDS, the Client Agreement and the FSG, and complete the Application Form. Your application must be approved by us to open an Account.

### **3.28 How do you learn to use the Trading Platform?**

We offer online tutorials on the use of our Trading Platform. We recommend that you apply for a Demo Account and trial our Trading Platform prior to opening an Account. The Demo Account mirrors the live Accounts and provides you with a virtual cash balance to trade, enabling you to become familiar with the features of the Trading Platform.

Please contact our Client Services Department for further details.

### **3.29 What if you need further information?**

You can contact us by our contact details listed out in Section 1.2 for further information.

## **4. KEY BENEFITS OF OUR PRODUCTS**

The trading of Margin FX provides a number of benefits which must, of course, be weighed up against the risk of using them. Benefits include:

### **4.1 Hedging**

You can use our Products to hedge exposures in relation to the relevant Underlying Instrument. Hedging also means that you may not receive the benefits of movements in your favour.

### **4.2 Speculation**

You can also use our Products for speculation with a view to possibly profiting from fluctuations with respect to the Underlying Instruments. Speculation may result in losses rather than gains.

### **4.3 Market position**

You can potentially profit (and lose) from both rising and falling markets depending on the strategy you have employed. Strategies may be complex and there will be different levels of risk associated with each of them.

### **4.4 Leverage**

The use of our Products involves a high degree of leverage. These Contracts enable you to outlay a relatively small amount (in the form of Margin) to secure an exposure to the Underlying Instrument. Gains and losses are amplified by the extent of the leverage. The leverage can work against you as well as for you. The use of leverage can lead to large losses as well as large gains.

### **4.5 Trade in small amounts**

Our Trading Platform allows you to make transactions in small amounts. You can open an Account with a minimum open balance as set out in Section 3.15. When trading in a Product we offer, you may deposit any amount that is in line with how much you are willing to risk.

## **5. KEY RISKS OF OUR PRODUCTS**

### **5.1 Introduction**

You should carefully consider whether dealing in our Products is appropriate for you in the light of your personal circumstances, financial situations or needs. In deciding whether or not you wish to become involved in these transactions, you should be aware that these products are speculative in that they are highly leveraged and carry a significantly greater risk than non-gearred investments. Consequently, you could lose large amounts of money and may sustain losses in excess of the moneys you initially deposited with us and also in excess of the Margin required to establish and maintain your open Contracts.

We do not give any personal financial product advice or opinion in relation to Margin FX Contracts and CFDs. We do not take into account your objectives, financial situation or needs. Without limitation, the Client Qualification Policy does not amount to personal financial product advice. You should obtain your own financial, legal, taxation and other professional advice as to whether our Products are an appropriate investment for you.

## **5.2 We act as principal and product issuer**

FAIRMARKETS operates as a market maker, and accordingly will act as a principal, not as an agent, in respect of all transactions. As we issue Contracts, you are exposed to various financial and business risks, including credit risk, associated with dealing with us.

Protections normally associated with dealings on licensed markets are not available when trading in the Products. For example, trading on the Australian Stock Exchange (ASX) generally has the benefit of a guarantee system known as the National Guarantee Fund which provides protection from fraud or misconduct by brokers in connection with certain ASX trades. Such guarantee funds do not apply to our Products.

## **5.3 Loss of money**

You may incur losses to the extent of your total exposure to us and any additional fees and charges that you are liable to pay to us. These losses may be far greater than the money that you have deposited into your Account or are required to satisfy Margin requirements. In addition, you could be required to pay further funds that represent losses and other fees on your open and closed positions.

You should be aware that if you acquire a Product, you will be exposed to movements in the price of the Underlying Instrument.

The risk of loss will be increased where you borrow funds to acquire the Product as the total loss which may be incurred will be the loss on the Product together with the amount you borrowed and any associated borrowing costs.

## **5.4 Leverage Risk**

You should be aware that trading in leveraged products such as our Products is one of the riskiest forms of investment available in the financial markets and may not be suitable for all investors. In deciding whether or not you wish to become involved in dealing in our Products, you should be aware that OTC derivatives are speculative products that are highly leveraged and carry significantly greater risk than non-gearred investment products such as share trading and you could lose large amounts of money. You may sustain losses in excess of the Margin Requirements needed to establish and maintain a Position. It is possible that you could sustain a loss of all of your initial investment or even more in extreme market circumstances (such as gapping in the underlying market) and therefore, you should not invest money that you cannot afford to lose. In particular, you should be aware that using a credit card as opening collateral exposes you to the risk of double leverage, being the combined effect of using a credit card to fund a leveraged trading Account.

## **5.5 Risk resulting from Margin Calls**

The risks associated with the obligation to meet Margin Calls are described in section 8. If the price of our Product moves against your Position you may be required, at short notice, to deposit further moneys with us in order to satisfy your Total Margin Requirement and maintain your Position. The amount of the additional Margin may be substantial and failure to pay it promptly may result in:

- A. some or all of your open Positions being closed or liquidated by us;
- B. you being prevented from opening new Positions or extending existing Positions; and
- C. you being liable for interest charges on negative or debit balances.

Further, any additional funds must become cleared before they will be taken as satisfying your Margin Call. In some circumstances, your Position may be liquidated before you have an opportunity to deposit

additional funds before any additional funds that you deposit in response to a Margin Call have had the opportunity to become cleared funds.

## **5.6 Derivative markets**

Derivative markets are speculative and volatile. Our Products are derivative instruments and can be highly volatile. Under certain market conditions, the price of our Products may not maintain the usual relationship with the Underlying Markets because of unforeseeable events or changes in conditions, none of which can be controlled by us.

## **5.7 Dealing may be affected by factors in the Underlying Market**

Our prices are derived from prices in the Underlying Market. Under certain market conditions, it could become difficult or impossible for you to manage the risk of open Positions by entering into opposite Positions in another contract or closing existing Positions.

The prices of Contracts will be influenced by, amongst other things, changing supply and demand relationships, governmental, agricultural, commercial and trade programs and policies, national and international political and economic events and their prevailing psychological characteristic and expectations of the Underlying Markets.

Sometimes markets move so quickly that gapping occurs. Gapping is the exposure to loss from failure of market prices or rates to follow a "smooth" or continuous path due to external factors such as world, political, economic and specific corporate events. If gapping occurs in the Underlying Market, it will also occur in the price of the relevant Contract and may mean that you are unable to close out your Position or open a new Position at the price at which you have placed your Order or may have liked to place your Order.

The Underlying Market may lack liquidity, caused by insufficient trading activity or because the aggregate of all requests for orders at a particular price determined by us exceeds the available volume in that market. This may affect our ability to offer our Products in sufficient volume to allow you to close-out your Position or open a new Position.

As a result, a potentially profitable deal may not be executed, or it may not be possible to close out a Position in a timely fashion at the price you require. This may lead to reduced profits and high losses.

We have the right to close your open Position, limit the size of your open Position or refuse Orders to establish new Positions, by giving you notice orally or in writing. You should refer to clause 15.1 of the Client Agreement.

## **Benchmark 6 Suspended or Halted Underlying Instruments**

We will halt trading in Contracts when there is a trading halt in the Underlying Instrument.

If an Underlying Instrument to which a Contract relates is suspended or has been halted from trading, we will suspend trading in the Product, and we may choose to increase the Margin Requirements to support that open Position at our reasonable discretion. If the Underlying Instrument remains suspended for a period that we deem unacceptable to us in our sole discretion, we may close the open Position at fair value as determined by us. If an Underlying Instrument to a Product has been de-listed or ceases to be priced, we reserve the right to close all affected open Positions at the last available price.

## **5.8 Your Account will be maintained in the Base Currency that you have nominated**

FAIRMARKETS offers Account denominations in Australian Dollars and US Dollars (referred to as the **Base Currency**). If you do not nominate a Base Currency, the default option will be US Dollars.

When you deal in a Product whose settlement currency is denominated in a currency other than the Base Currency, all Margins, profits, losses, Swap Charges, Swap Benefits, Rollover Charges and Rollover Benefits in relation to that Product are calculated using the currency in which the product is settled and is then converted to your Base Currency.

Accordingly, your profits or losses may be affected by fluctuations in the relevant Underlying Market price between the time the Order is placed and the time the Position is closed, liquidated or offset.

Upon closing a Contract that is denominated in a currency other than the Base Currency of Account you will be able to request that the foreign currency balance be converted to the Base Currency of your Account. Any conversion will be at the exchange rate quoted by us and subject to the Conversion Fee. Until the foreign currency balance is converted to the Base Currency, fluctuations in the relevant foreign exchange rate may result in unrealised profit or loss made on the Position.

### **5.9 Loss caused by Spread**

Because of the difference between the buying and selling price of a Product, the relevant price must move favourably before you can break even. In other words, even if the price does not move at all and you close out your Position, you will make a loss to the extent of our Spread and any other charges you have incurred to us.

Furthermore, the Spread may be larger at the time you close out the Position than it was at the time you opened it.

You should also note that a "Spread Position", that is, the holding of a bought Contract for one specified date and a sold Contract for another specified date, is not necessarily less risky than a simple "long" (i.e. bought) or "short" (i.e. sold) Contract.

### **5.10 Execution risk - delays in execution**

A delay in execution may occur for various reasons, such as technical issues with your Internet connection to our servers, which may result in hanging Orders. A disturbance in the connection path can sometimes interrupt the signal, and disable the Trading Platform, causing delays in transmission of data between your Trading Platform and our servers.

### **5.11 Automated trading strategies**

The use of automated trading strategies (Expert Advisors) on the Trading Platform is of high risk and may lead to significant financial loss. We have no control over the logic or code used by these systems to determine Orders to trade. We do not accept or bear any liability whatsoever in relation to the operation of Expert Advisors on the Trading Platform.

### **5.12 Counterparty risk – Benchmark 3 Hedging**

Credit risk refers to the risk that our hedging counterparty fails to perform its obligations which results in financial loss. We have put in place a risk management framework which is intended to manage the credit risk and market risk and to protect us and our clients from sudden changes in the liquidity, credit quality or solvency of our hedging counterparties.

You will be dealing with us as counterparty to every Contract. You will have an exposure to us in relation to each Contract. If we default on our obligations, you may become an unsecured creditor in an administration or liquidation and will not have recourse to any underlying assets in the event of our insolvency.

We are also exposed to the financial risks of the financial institutions with which we hold funds and with which we enter into hedging or offsetting transactions to manage our exposure to you. Accordingly, you are indirectly exposed to the financial risks of the counterparties and financial institutions with which we hold funds. If the financial condition of us or assets of our counterparties or the parties with which we hold our funds deteriorate, then you could suffer loss because the return of Client Money could become difficult.

Within our risk management framework, we have assessed the market risk and counterparty risk arising from entering into transactions with you (and our other client) and hedging counterparties and applied controls to mitigate those risks. Those controls include:

- A. the enforcement of leverage limits based on the Total Equity of your Account and the instruments being traded;
- B. the enforcement of market risk limits on our net exposure and daily loss limits; and
- C. the selection and maintenance of one or more hedge counterparty relationships.

You can request from us a copy of our policy on the activities we undertake to mitigate our credit and market risk referred to in this section.

Our selection of hedging counterparties is based on the following factors:

- A. the counterparty's reputation;
- B. the regulatory status of the counterparty, including whether the counterparty is financially strong, well capitalised and have the financial resources to offer the requisite margin and leveraging products;
- C. the services provided; and
- D. the strength of operational controls and systems (including accounting and reporting supported by systems and interface and internal control).

Our current Hedging Counterparty Policy, which notes our current approved hedging counterparties, is available on our Website (and may be updated from time to time as counterparties change).

### **5.13 Counterparty risk – Benchmark 3 Financial Resources**

As an issuer of OTC derivative products, we must comply with the financial requirements imposed under our AFSL as set out in ASIC Regulatory Guide 166 and other regulatory financial obligations.

We monitor our exposure on a daily basis using real-time software tools and prepare detailed financial reports on a monthly basis to ensure applicable financial requirements are met. We also:

- A. perform daily reconciliation of Client Money as required by section 2.2.1 of the ASIC Client Money Reporting Rules 2017;
- B. perform a monthly reconciliation of Client Monies and report to ASIC as required by section 2.2.2 of the ASIC Client Money Reporting Rules 2017;
- C. perform a monthly net tangible assets (NTA) calculation, ensuring that we meet the minimum NTA requirement set by ASIC;
- D. perform real-time stress testing ensuring that in the event of significant adverse market movements, we would have sufficient liquid resources to meet our obligations to you and our other clients without needing to have recourse to Client Money to do so.



The latest results of our financial audit are available for inspection upon request at the registered office of FAIRMARKETS free of charge. If you have any questions, please contact an FAIRMARKETS representative or via our email: [support@fair.markets](mailto:support@fair.markets)

#### **5.14 Regulatory risk**

Changes in taxation and other laws, government fiscal, monetary and regulatory policies may have a material adverse effect in your dealings in contracts with us.

#### **5.15 Systems risk**

There are operational risks associated with any trading platform and any disruption to our Trading Platform may mean that you will be unable to trade in the Product with us when desired. Accordingly, you may suffer a loss as a result caused by a delay in our operational processes such as communications, computers, computer networks, software or external events that cause delays in the execution and settlement of a transaction.

We do not warrant that the Trading Platform will always be available or accessible when the exchanges on which the Underlying Instruments in respect of which you have traded or wish to trade are open and we reserve the right to remove altogether or reduce the Trading Platform service at any time for any purpose, without thereby incurring any liability to you. We do not warrant that the Trading Platform or any component of the Trading Platform or any services performed in respect of our Trading Platform will meet the requirements of any user, or that the operation of the Trading Platform will be uninterrupted or error-free, or that any services performed in respect of the Trading Platform will be uninterrupted or error-free. We have no liability to you for any loss, damage or cost which you may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers or other system errors. You acknowledge that access to the Trading Platform may be limited or unavailable due to such system errors, and that we reserve the right upon notice to suspend access to Trading Platform for this reason. We do not accept any liability in respect of any delays, inaccuracies, errors or omissions in any data provided to you in connection with a Trading Platform. We have no liability to you in the event that any viruses, worms, software bombs or similar items are introduced via the Trading Platform or any software provided by us to you in order to enable you to use the Trading Platform, so long as we have taken reasonable steps to prevent any such introduction.

We reserve the right in unforeseen and extreme market situations to suspend the operation of our Trading Platform or any part or section of it. In such an event, we may, at our sole discretion, and under the Client Agreement, with or without notice, close-out your open contracts at prices we consider fair and reasonable at such time.

#### **5.16 Changes in Margin Percentage**

We may exercise our right under the Client Agreement to alter the Margin Percentage in relation to any of our Products at any time at its discretion. Notification of this alteration can be given to you in writing. The alteration will take immediate effect over the affected open positions. This change will affect your Margin Requirement.

You should refer to Section 8 of this PDS for further information.

#### **5.17 Stop Orders and Limit Orders are not guaranteed**

The placing of a Stop Order can potentially limit your loss; however, we do not guarantee that a Stop Order will do so. Similarly, a Limit Order can maximise your profit but there is also no guarantee of this. This is because, for example, foreign exchange markets can be volatile and unforeseeable events can occur which mean that it is possible that Stop Orders and Limit Orders may not be accepted or may be accepted at a price different to that specified by you. You should anticipate being stopped out at or limited at a price worse than the price you set. You may suffer losses as a result.

## **6. HOLDING YOUR MONEY**

### **6.1 Trust account**

We handle all Client Money we receive in accordance with and subject to the Client Agreement and the following applicable laws (**Australian Client Money Rules**):

- A. Part 7.8 of Division 2 of the Corporations Act;
- B. the relevant regulations in the Corporations Regulations 2001;
- C. ASIC Regulatory Guide 212: Client money relating to dealing in OTC derivatives; and
- D. ASIC Client Money Reporting Rules 2017.

Client Money will be paid into a trust account maintained by us with an authorised deposit-taking institution (**ADI**). We will not be liable for the insolvency or any act or omission of any ADI holding the trust account. Your moneys may be co-mingled into one or more pooled trust accounts with other clients' moneys.

We do not use Client Money for the purpose of meeting obligations incurred by us when hedging with our counterparties. Any obligations incurred by us in connection with such transactions are funded by us from our own money.

We may invest any of your money held in any segregated trust account in the kinds of investments as permitted by the Australian Client Money Rules and you irrevocably and unconditionally authorise us to undertake any such investment.

We are solely entitled to any interest or earnings derived from your moneys being deposited in a segregated trust account or invested by us in accordance with the Australian Client Money Rules with such interest or earnings being payable to us from the relevant segregated trust account or investment account, as the case requires as and when we determine.

### **6.2 Protection afforded by the Australian Client Money Rules**

Under the Australian Client Money Rules, we must hold your moneys on trust.

Furthermore, the Australian Client Money Rules provide that in the event that we cease to be licenced (including because our Australian Financial Services Licence has been suspended or cancelled), become insolvent or cease to carry on some or all of the activities authorised by our AFSL, Client Money held by us or an investment of Client Money, will be dealt with as follows:

- A. money in the trust account is held in trust for the persons entitled to it, and is paid in the order set out below in the third bullet point below;
- B. if money in the trust account is invested, the investment is likewise held in trust for each person entitled to money in the account;
- C. the money in the account is to be paid in the following order:

- i. the first payment is of money that has been paid into the account in error;
- ii. the next payment is payment to each person who is entitled to be paid money from the account;
- iii. if the money in the account is not sufficient to be paid in accordance with the above paragraphs, the money in the account must be paid in proportion to the amount of each person's entitlement; and
- iv. if there is any money remaining in the account after payments made in accordance with the above paragraphs, the remaining money is payable to us.

These rules override anything to the contrary in the *Australian Bankruptcy Act 1966*, in the Corporations Act or other law, or in the Client Agreement.

### **6.3 Warning about trust accounts**

It is important to note that our holding your moneys in one or more pooled trust accounts may not afford you absolute protection.

The purpose of trust accounts is to segregate the Client Money, including your moneys, from our own funds. However, individual's Client Money are co-mingled into one or more trust accounts.

Furthermore, trusts accounts may not protect your moneys from a default in the trust accounts. Should there be a deficit in the trust accounts and in the unlikely event that we become insolvent before the topping up of the trust accounts in deficit, you will be an unsecured creditor in relation to the balance of the moneys owing to you.

### **6.4 What is an unsecured creditor?**

In the event that you become an unsecured creditor of us, you will need to lodge a proof of debt with the liquidator for the amount of moneys that are owing to you as evidenced by your account statements. The liquidator then assesses all proofs of debts to determine which creditors are able to share in the assets of the company, and to what extent depending on the amounts owing to them and any priority they may have to be paid.

## **7. BECOMING A CLIENT**

### **7.1 Qualification policy**

Trading in our Products is not suitable for everyone because of the significant risks involved. This section sets out how our Client Qualification Policy operates in practice.

### **7.2 Minimum qualification criteria**

We assess your suitability against a list of qualifying criteria that addresses your understanding and experience with the Products. You must be aware of the features of the Products and the associated risks before investing in them. We do not accept retail investors unless you meet the minimum qualification criteria. In accordance with RG 227, the factors that we take into account in assessing your suitability include:

- A. Previous trading experience in trading financial products;
- B. Understanding of leverage, margins and volatility;

- C. Understanding of the key features of the Products;
- D. Understanding the trading process and relevant technology;
- E. Ability to monitor and manage the risks of trading; and
- F. Understanding that only risk capital should be traded.

Our assessment of your suitability is based on the information you provide. You warrant that the information you provide to us is true and accurate in all aspects. You understand that we will rely upon the information you provide in making a judgment about whether to accept you as a client.

Our assessment of your suitability to trade in the Products and any limits we set for your Account (or later change to those limits) should not be taken as personal advice to you nor does it imply that we are responsible for any of your losses from trading in the Products.

To the extent permitted by law, we do not accept liability for your choice to invest in any Products so you should read all of this PDS carefully, consider your own needs and objectives for investing in these Products and take independent advice as you see fit.

Even if we assess you as suitable to trade the Products, we urge you to use our Demo Accounts for a period of time to ensure you are familiar with the terminology of the Products and how they work. If in our sole judgment we consider that you have qualified, we will not be liable in any way to you, or have any dealings or transactions between us set aside, modified or varied, if your experience, knowledge and understanding are found to be insufficient or that we were in error in making our judgment.

### **7.3 Client qualification test**

When you start the Account opening process with us online, you will be asked the level of previous experience you have in Margin FX Contracts and CFDs. As part of the Account opening process, you will be required to demonstrate through a Client Qualification Test your understanding of the following:

- A. leverage, Margins and volatility;
- B. key features of Margin FX Contracts and CFDs;
- C. the trading process and relevant technology; and
- D. the ability to manage and monitor trading risks.

The above test must be passed with a 60% or higher score to allow an Account to be opened. The test may be attempted three (3) times.

#### **Other options to demonstrate suitability**

FAIRMARKETS allows you to open an Account with us without completing the Client Qualification Test when you provide us with any of the following:

- A. a copy of previous trading statement demonstrating that you traded at minimum ten (10) lots with another licensed broker in the last twelve (12) months; or
- B. a completion certificate which shows your completion of an approved training course for trading.

We have sole discretion in assessing and determining whether any documents you provide are sufficient to demonstrate your suitability to trade our Products.

### **7.4 Client on-boarding process**

We check minimum qualification criteria as part of our client on-boarding process through the FAIRMARKETS Application Form and our Client Qualification Test. If you do not meet our minimum qualification criteria, one of our sales representatives will contact you to discuss potential solutions to improve your understanding and knowledge of Margin FX Contracts and CFDs.

## 7.5 Written records

We document our assessment process and retain this information as records.

## 8. MARGINS AND MARGIN CALLS

Contracts are subject to Margin obligations. Margin refers to the minimum amount that you must have in your account to enter into and to maintain a Contract with FAIRMARKETS.

### 8.1 Initial Margin

Upon placing a trade that creates an open Position you are required to pay us, and have in your Account, the Margin for that trade as calculated by us. This is known as the Initial Margin, and is calculated as follows:

**Initial Margin requirement = (Quantity of Contract Units x Contract Price) x Margin Percentage**

When you open a Position in our Products you will need to have sufficient funds in your Account to satisfy the Margin Requirement for that Position.

Margin Requirements vary with each Product and a list of the requirements is set out in the Product Schedule available on the Trading Platform. These may change regularly. Margin Percentages vary with each Product and are set out in our Product Schedule.

For Transaction Based Accounts, by holding an equal number of both bought and sold Contracts, the Initial Margin will be partially offset. You will still be charged an Initial Margin but at a reduced rate.

For Position Based Accounts, Positions will be netted, and the Margin Requirement will therefore be reduced.

### 8.2 Continuing Margin obligation

In addition to the Initial Margin, you have a continuing obligation in relation to Margin as set out below in respect of all open Positions on your Account.

You have a continuing Margin obligation to us to ensure that at all times during which you have open Positions, your Total Equity is at least the Margin that we require you to have paid to us for all of your open Positions, such Margin required by us at all times (the Margin Requirement) for each open Position being:

**(Quantity of Contract Units x Contract Price) x Margin Percentage**

You must pay to us the Margin Requirements for all of your open Positions.

If there is any shortfall between your Total Equity and your Total Margin Requirement for all your open Positions, you are required by us to deposit additional funds into your Account so that there is no such shortfall. These funds are due and payable to us immediately on your Total Equity falling below your Total Margin Requirement for all your open Positions.

Margin Requirements will fluctuate with the value of the Underlying Instrument on which the Contract is based. Further, where you deal in a Contract that is denominated in a currency other than the Base Currency of your Account, your Margin Requirement may also be affected by fluctuations in the relevant

foreign exchange rate. Also, we may vary the Margin Percentage (and therefore the Margin) at any time at our discretion.

The Total Equity of your Account will be determined by us on an ongoing basis and will fluctuate according to the money you have deposited in your Account, the dealings conducted on your Account and the Positions you hold. During the opening hours set out in section **Error! Reference source not found.**, your Account is constantly calculated in line with movements in our prices. The Account balance is also calculated at the end of the day. It is your responsibility to monitor and manage your open Positions and exposures and ensure that your Account is sufficiently funded at all times for Margin. This may require:

- A. closing or reducing one or more of your open Position(s) in order to reduce your Margin Requirement; and/or
- B. depositing additional funds into your Account in order to satisfy the Margin Requirement.

If you choose to deposit additional funds into your Account, these additional funds must be cleared funds before they will be treated as having satisfied your obligations.

### **8.3 Margin Call Level**

For all types of Accounts, Margin Level is calculated as the percentage of **Total Equity to Total Margin Requirements**. For all types of Accounts, the Margin Call Level is set to be 50%.

This means that should the Margin Level fall below 50%, the Trading Platform will automatically trigger a Margin Call.

Margin Calls are made on a net Account basis i.e. if you have several open Contracts, then Margin Calls are netted across the group of open Contracts. In other words, the unrealised profits of one Contract will be used or applied as Initial Margin or Variation Margin for another Contract.

We have the right to change the applicable Margin Call Levels at any time.

If a Margin Call is triggered, you are required by us to deposit additional funds into your Account to satisfy the Margin Call. These funds are due and payable to us immediately on the Margin Call being triggered.

### **8.4 Margin Call Liquidation Level and our right**

In addition to the requirements set out in section 8.1 and 8.2, if at any time a Margin Call Liquidation Level is reached, whilst it is not an Event of Default, we may (but are not obliged to) close some or all of your open Positions at our absolute discretion. We will not be responsible for any losses you may suffer or incur in connection with any such closing of your open Positions or any lack of closing thereof.

For all types of Accounts, the Margin Call Liquidation Level is set at 30%. This means that should the Margin Level reach or drop below 30%, we are entitled to close all or some of the open Contracts without notice to you.

We have the right to change the applicable Margin Call Liquidation Level at any time.

### **8.5 Changing Margin Percentage, Margin Call Level and Margin Call Liquidation Level**

We may vary the Margin Percentage, Margin Call Level and Margin Call Liquidation Level at any time at our discretion. Without limitation, we may vary the Margin Percentage, Margin Call Level and Margin Call Liquidation Level in response to or in anticipation of the following:

- A. changing volatility and/or liquidity in the Underlying Instrument or in the financial markets generally;
- B. economic news;

- C. changes in your dealing pattern with us;
- D. your credit circumstances change; or
- E. your exposure to us being concentrated in a particular Underlying Instrument.

You should note that there may be other circumstances which may give rise to us changing your Margin Percentage, Margin Call Level and Margin Call Liquidation Level.

When the Margin Percentage, Margin Call Level or Margin Call Liquidation Level is changed, you will need to close and open the Trading Platform in order to have relevant Margin updated.

## **8.6 You must monitor Margin**

Through the Trading Platform, you have access to your Account and sufficient information to enable you to calculate the amount of any Margin Requirements and the total amount of Margin due from you in the Base Currency using our current exchange rate. It is your responsibility to ensure that you obtain all relevant information in respect of your Account, including all information in respect of your current open Positions. We will not be responsible for any losses you may suffer or incur as a result of you not obtaining or requesting any such information.

It is your responsibility to monitor at all times (including by checking on the Trading Platform) the amount of Margin deposited with us from time to time against the amount of any Margin currently required and any additional Margin that may be necessary or desirable, having regard to such matters as:

- A. your open Positions;
- B. the volatility of any relevant Underlying Instrument;
- C. the volatility of the relevant market;
- D. the volatility of the markets generally;
- E. any applicable exchange rate risk; and
- F. the time it will take for you to remit sufficient cleared funds to us.

## **8.7 No obligation to make margin call; failure to pay margin**

You can monitor your Margin Requirements using the Trading Platform or by contacting us. You should ensure at all times; your Total Equity is above 50% of the Total Margin Requirement.

Your failure to pay any Margin or comply with your obligations in connection with Margin is an Event of Default. If an Event of Default occurs, we may, among other things, terminate the Client Agreement and/or close all or any of your open Positions and deduct the resulting realised loss from your Account.

See Section 10 for a description of our powers upon an Event of Default.

## **8.8 Risk**

You may lose more than your initial investment. You may incur losses to the extent of your total exposure to us and any additional fees and charges that apply. These losses may be far greater than the money that you have deposited into your Account or are required to deposit to satisfy Margin Requirements.

## **9. FEES, COSTS AND CHARGES**

## 9.1 General

Whilst we endeavor to include all fees and charges in the Spread quoted, in some circumstances you may incur additional fees and charges.

The fees and charges when dealing in our Product may incorporate any or all of the following:

- A. Swap Charges;
- B. Rollover Charges;
- C. Interest charges applied to debit balances in your Account;
- D. Commissions;
- E. Conversion Fees;
- F. Dormant Account Fees; and
- G. Administration charges.

The fees and charges may change from time to time and will be reflected in this PDS or on our Website as required.

## 9.2 Commissions

There may be Commissions payable on trades executed in some of our Products. Such Commissions for both opening and closing will be charged upon opening of the Contract. The details of any Commissions payable are available on the Website, and you should check any of such details before entering into a Contract with us.

## 9.3 Swap Charges and Swap Benefits

When you hold a Position or Positions overnight in a Margin FX Contract or CFD (other than a Futures Based CFD) they will be rolled to the next Business Day, which will result in you paying a Swap Charge or receiving a Swap Benefit. The amount is determined by us and depends on factors including our Swap Rate, being the rates at which you receive or pay interest on Positions that remain open overnight. This is a varying rate dependent upon the applicable rate in the relevant markets, the duration of the rollover period, the size of the Contract and our markup that is applied at our discretion.

No Swap Charge or Swap Benefit will be paid or received in the case of Futures Based CFD.

If you are long on a Margin FX Contract you may either receive a Swap Benefit or pay a Swap Charge, depending on the currency you are long, and if you are short on a Margin FX Contract you may either pay a Swap Charge or receive a Swap Benefit, depending on the currency you are short on.

Swap Charges and Swap Benefits due will be accrued in the swap value field of the open trade Position. In the event that there are insufficient funds in your Account, any amount due to us because of the Swap Charges becomes a debt due and owing by you to us.

### **Examples:**

#### *Long Margin FX Contracts*

If you are long on a Margin FX Contract where the bought currency interest rates are higher than the sold currency interest rates you will receive interest at the Swap Rate if you hold the Position overnight and do not close it before the settlement time. This is because you are holding the higher yielding currency. On the other hand, if you are long on a Margin FX Contract where the bought currency interest rates are lower



than the sold currency interest rates then you will pay interest at the Swap Rate if you hold the Position overnight and do not close it before the settlement time. This is because you are holding the lower yielding currency.

#### *Long Bullion CFDs*

If you have a long USD/short Bullion Position and interest rates in the USA are higher than the Bullion Swap Rate you will receive a Swap Benefit at the Bullion Swap Rate if you hold the Position overnight and do not close it before settlement time. This is because you are holding the higher yielding asset.

#### *Short Margin FX Contracts*

If you are short on a Margin FX Contract where the sold currency interest rates are higher than the bought currency interest rates you will pay interest at the Swap Rate if you hold the Position overnight and do not close it before the settlement time. This is because you are holding the lower yielding currency. On the other hand, if you are short on a Margin FX Contract where the sold currency interest rates are lower than the bought currency interest rates then you will receive interest at the Swap Rate if you hold the Position overnight and do not close it before the settlement time. This is because you are holding the higher yielding currency.

#### *Short Bullion CFDs*

If you have a short US dollar/long Bullion Position and interest rates in the USA are higher than the Bullion Swap Rate you will pay a Swap Charge at the relevant Swap Rate if you hold the Position overnight and do not close it before settlement time. This is because you are holding the lower yielding asset.

### **9.4 Rollover Charge or Rollover Benefit**

A rollover will arise in a Futures Based CFD when the underlying front month futures Contract is approaching the Expiry Date and we change our pricing feed. When the new price feed takes effect, you will immediately create a gain or loss in your open trade equity. This profit or loss will depend on your Contract size and direction and the price differential of the expiring contract and the new Contract on which the price will be now based. You will be credited or debited with a Rollover Charge or Rollover Benefit that will fully offset the effect of the abovementioned profit or loss. For example, if you have made a profit on the change to the new Contract Price feed you will receive a Rollover Charge, which will offset the gain.

Rollover Charges and Rollover Benefits due will be accrued in the swap value field of the open trade Position. In the event that there are insufficient funds in your Account, any amount due to us because of the Rollover Charges becomes a debt due and owing by you to us. In order to minimise the bid/offer Spread we will typically switch from using the front month to the next serial contract one (1) to four (4) trading days prior to the Underlying Instrument's last trading day when liquidity can be limited.

### **9.5 Conversion fees**

Profits or losses accumulated in your Account in currencies other than the Base Currency nominated by you will be converted to the nominated Base Currency, but at Spreads that may be wider than those shown on the Trading Platform.

### **9.6 Interest charges applied to balances**

If there is a debit balance in your Account after the Margins for our Products have been taken into account, (i.e. you owe money to meet the Margin Requirement), you will pay us interest on the debit balance.

The relevant rates of interest are determined by us at our discretion. Any amounts of interest payable to us will be deducted from any interest payable to you.

Further, if you fail to make any payment required under the Client Agreement when it falls due, interest will be charged (and you will pay interest) on the outstanding sum at the rate of 20% per annum. Interest accrues and is calculated daily from the date payment was due until the date you pay in full and is compounded.

### 9.7 Dormant Account Fees

We will charge a monthly inactivity charge of USD\$10 which will be deducted per dormant Account where funds are available. An Account shall be considered dormant if there are no open Contracts and there has been no other trading activity for a continuous period of two years.

The monthly inactivity charge of USD\$10 will be deducted from your Account until either:

- A. The Account is closed by you or FAIRMARKETS;
- B. Trading activity recommences on the Account; or
- C. The balance of the Account is reduced to zero.

Once the balance of a dormant Account has reduced to zero, we will not deduct further monthly inactivity charges from the dormant Account. A dormant Account will not incur a negative balance as a result of the deduction of the monthly inactivity charge.

### 9.8 Administration Charges

We reserve the right to charge the following additional fees:

All charges are inclusive of GST (where applicable)

<u>Administration services</u>	<u>Fee – Australian Clients</u>	<u>Fee – Foreign Clients</u>
<b>Receipt</b>		
Electronic Funds Transfer	Free	Free
B-Pay (AUD)	Free	Free
Cash & cheque deposits (AUD)	Free	USD\$10.00
Telegraphic transfer	Free	USD\$25.00
Credit card	Applicable bank charges only	Applicable bank charges only
Other funding methods	Refer to the Website	Refer to the Website
<b>Withdrawals</b>		
Electronic Funds Transfer	AUD\$25.00	USD\$40.00
Credit card	Applicable bank charges only	Applicable bank charges only
<b>Other</b>		
Duplicated statements by post	AUD\$4.00 per statement	USD\$4.00 per statement
Returned cheque fee	Upon application	Upon application

Transcript of telephone conversations	Upon application	Upon application
Audit certificates	Upon application	Upon application
Debt collection	First call AUD\$25.00	First call USD\$25.00
	Second Call AUD\$50.00	Second Call USD\$50.00
	Referral to agency AUD\$150.00	Referral to agency USD\$150.00

### 9.9 Interest in Client Money Accounts

We are solely entitled to any interest or earnings derived from your moneys being deposited in a segregated trust account or invested by us in accordance with the Australian Client Money Rules with such interest or earnings being payable to us from the relevant segregated trust account or investment account, as the case requires as and when we determine.

## 10. OUR RIGHTS AND POWERS

### 10.1 Events of Default

We have extensive powers under the Client Agreement to take action where there is an Event of Default (as described in clause 15.2 of the Client Agreement). These include, among others:

- A. where you fail to provide to us any Margin or other sum due under the Client Agreement in respect of any Product;
- B. the Margin held by us in respect of any open Contracts falls below the Total Margin Requirements;
- C. where an Insolvency Event occurs in relation to you;
- D. where at any time or for any period deemed reasonable by us you are not contactable;
- E. you do not respond to any notice or correspondence from us.

Our powers (as described in clause 15.2 of the Client Agreement) enable us to, among other things, close out all or any of your Contracts, immediately require payment of any amount you owe us and terminate the Client Agreement.

### 10.2 Additional rights

We may also close your Account on fourteen (14) days' notice in certain circumstances (as described in clause 15.3 of the Client Agreement). If we rely on those rights, your Account will be suspended during the fourteen (14) day notice period and you will not be able to place trades other than those to close existing open Positions. If you have not closed all the open Positions within the fourteen (14) days' notice period, we may take any action referred to in clause 15.2 of the Client Agreement. The relevant circumstances are:

- A. any litigation is commenced involving you and us in an adversarial position to each other and, in view of the subject matter of or any issues in dispute in relation to that litigation, we reasonably decide that it cannot continue to deal with you while the litigation is pending;

- B. where you have acted in an abusive manner toward our staff (for example by displaying what we consider to be discourtesy or the use of offensive or insulting language);
- C. where we believe that you are unable to manage the risks that arise from your trades.

Further, if at any time Total Equity is at or below 30% of Total Margin Requirements, whilst it is not an Event of Default, we may (but are not obliged to) close some or all of your open Positions at our absolute discretion.

We may amend or replace the Client Agreement by giving written notice of the changes. We will only make changes for good reason, including:

- D. making the provisions clearer or more favourable to you;
- E. reflecting legitimate increases or reductions in the cost of providing services to you;
- F. rectifying any mistakes that may be discovered;
- G. reflecting any changes in the Applicable Laws, codes of practice or decisions by a court, ombudsman, regulator or similar body;
- H. reflecting changes in market conditions;
- I. reflecting changes in the way we do business.

We may also terminate the Client Agreement and close your Account and any Position at any time by giving you thirty (30) days' written notice.

### **10.3 Force Majeure Events**

If we determine that a Force Majeure Event exists, then we may, at our sole discretion, take any one or more of the steps outlined in clause 27.4 of the Client Agreement. These steps include altering the Margin Percentage, amending or varying the Client Agreement and any transaction insofar as it is impractical or impossible for us to comply with our obligations to you and closing any or all open Contracts as we deem to be appropriate in the circumstances.

### **10.4 Material Errors**

It is possible that errors, omissions or misquotes (Material Error) may occur in relation to Products, which by fault of either of us or any third party, is materially incorrect when taking into account market conditions and quotes in Underlying Instruments which prevailed at the time. A Material Error may include an incorrect price, date, time or other characteristic of our Products or any error or lack of clarity of any information. If a trade is based on a Material Error, we reserve the right without your consent to:

- A. amend the terms and conditions of the Contract to reflect what we consider to have been the fair price at the time the Contract was entered into and there had been no Material Error;
- B. close the trade and any open Contracts resulting from it;
- C. void the Contract from the outset; or
- D. refrain from taking action to amend or void the Contract.

We will exercise our right in relation to Material Errors in good faith and as soon as reasonably practicable after we become aware of the Material Error. In the absence of fraud on our part, we are not liable to you for any loss, cost, claim, demand or expense that you incur or suffer (including loss of profits or indirect or consequential losses), arising from or connected with the Material Error including where the Material Error arising from an information service on which we rely.

We may, without notice, adjust your Account or require that any moneys paid to you in relation to the Contract the subject of the Material Error be repaid to us as a debt due payable to us on demand.

## **10.5 Manipulation**

If we believe that you have manipulated our prices, execution processes or Trading Platform, we may, in our sole and absolute discretion, without notice to you, take actions set out in clause 9.10 of the Client Agreement, including:

- A. enforce the trade(s) against you if it is a trade(s) which results in you owing money to us;
- B. treat some of or all your trades as void from the outset if they are trades which result in us owing money to you, unless you produce conclusive evidence (within thirty (30) days of us giving you notice) that you have not committed any breach of warranty, misrepresentation or undertaking in the Client Agreement; and
- C. take such other action as we consider appropriate.

## **11. CLIENT AGREEMENT**

This PDS summarises many important elements of the Client Agreement. However, it is not a comprehensive description of the terms and conditions of the Client Agreement and you must read the Client Agreement in its entirety. You should consider seeking legal advice before entering into any transaction, as the terms and conditions contained in the Client Agreement are important and affect your dealings with us.

## **12. TAXATION CONSIDERATIONS**

This section contains general information about the Australian taxation implications for Australian residents dealing in the Products and is based on Australian taxation laws as at the date of the PDS. It is general information only, and does not take into account your objectives, financial situation or needs.

Australian residents and non-Australian residents should seek professional taxation advice that is based on their individual circumstances and in the case of non-residents the taxation laws of both Australia and their country of taxation before trading in the Products.

### **12.1 Taxation ruling: contracts for difference**

The approach of the Commissioner of Taxation to the income tax and capital gains tax consequences of dealing in financial contracts for difference, such as CFDs (including Margin FX Contract), is reflected in Taxation Ruling 2005/15. We set out a summary of that ruling below.

A copy of Taxation Ruling 2005/15 is available at [www.ato.gov.au](http://www.ato.gov.au).

It is the Commissioner's view that any gain a taxpayer makes from dealing in a CFD will be assessable income under section 6-5 of the Income Tax Assessment Act 1997 (ITAA 1997), while any loss it makes from dealing in CFD will be an allowable deduction under section 8-1 of ITAA 1997 provided that:

the CFD transaction is entered into as an ordinary part of carrying on a business; or

the profit is made, or the loss is incurred, as a consequence of a business operation or commercial transaction entered into for the purpose of profit-making.

A gain from dealing in a CFD will also be assessable income under section 15-15 of ITAA 1997 where a taxpayer is carrying on, or has carried out, a profit-making undertaking or scheme, and the gain from it is not assessable under 6-5 of ITAA 1997. Correspondingly, a loss from dealing in a CFD where the gain would have been assessable under section 15-15 of ITAA 1997 is an allowable deduction under section 25-40 of ITAA 1997.

A gain or a loss from a CFD entered into for the purposes of recreation by gambling will not be assessable under either section 6-5 or 15-15 of ITAA 1997, or deductible under section 8-1 or 25-40 of that Act.

The Commissioner is also of the view that a capital gain or a capital loss from a CFD entered into for the purpose of recreation by gambling will be disregarded under paragraph 118-37 (1)(c) of ITAA 1997.

## **12.2 Additional matters not covered by ruling**

The following matters are also relevant when dealing in CFDs.

### **Capital Gains Tax**

A CFD is a CGT asset under section 108-5 of ITAA 1997. On the maturity or closing-out of a CFD, CGT Event C2 happens (section 104-25 of 1997). However, to the extent that a gain from dealing in a CFD as a result of a CGT Event is assessable under section 6-5 or 15-15 of ITAA 1997, a capital gain arising from the event is reduced (section 118-20 of ITAA 1997). To the extent that a loss made from dealing in a CFD is deductible under sections 8-1 or 25-40 of ITAA 1997, the reduced cost base of the asset is reduced, thereby reducing the amount of the capital loss (subsection 110-55(4) of ITAA 1997).

Finally, in calculating any capital gain or loss, a taxpayer is entitled to take into account the cost of acquiring, holding and disposing of the CFD.

### **Interest**

Any interest received in relation to a CFD is assessable income.

### **Interest on debit balances**

Any interest on the debit balance of an investor's account is deductible.

### **Interest paid or received due to holding a CFD**

Interest that is paid or received due to holding a CFD forms part of any net gain or loss that a taxpayer makes when dealing in CFDs.

## **12.3 Taxation of financial arrangements**

The Tax Laws Amendment (Taxation of Financial Arrangements) Act (the Legislation). This Legislation provides a framework for the taxation of gains and losses from certain financial arrangements. Gains from the financial arrangements are assessable and losses are deductible.

The Legislation generally applies to all "financial arrangements" as defined in subdivision 230-A or included by the additional operation of subdivision 230-J. However, certain financial arrangements, as detailed below are effectively subject to an exemption under subdivision 230-H.

Division 230 of the Legislation provides a range of elective methods for determining gains and losses; namely the fair value method, the retranslation method, the hedging method and the financial reports method. Where these selective methods are not, or cannot be made, the appropriate treatment is either the accruals or realisation method.

Relevantly, the Legislation does not apply to:

- A. financial arrangements of individuals;
- B. financial arrangements of superannuation funds (regulated and self-managed), approved deposit funds, pooled superannuation funds or managed investment schemes for the purposes of the Corporations Act where the value of the entity's assets is less than AUD\$1 million;
- C. financial arrangements of authorised deposit-taking institutions, securitisation vehicles and financial sector entities with an aggregated annual turnover of less than AUD\$20 million per year; or
- D. financial arrangements of other entities:
  - o with an aggregated annual turnover of less than AUD\$100 million – where the value of the entity's financial assets are less than AUD\$100 million; and
  - o where the value of the entity's assets is less than AUD\$300 million;except where the taxpayer elects to have division 30 of the Legislation apply to all of its financial arrangements.

It will be appreciated that the Legislation will have limited application to investors in CFDs. However, there may be special circumstances where it may be beneficial for you to elect to apply division 30 to your financial arrangements.

You should, therefore, seek independent tax advice on how the Legislation will apply to you.

#### **12.4 Goods and Services Tax (GST) Ruling**

The Commissioner has also released a determination relating to the GST implications of trading in CFDs: GST Determination GSTD 2005/3.

The Commissioner has stated that the costs incurred in having a CFD Position open, such as commissions (on both opening and closing), dividend and corporate event adjustments, Daily Funding Charges and Margins are all considered financial supplies under the A New Tax System (Goods and Services Tax) Act 1999 (the GST Act). Consequently, they are input taxed and no GST is payable on their supply. GST may apply to certain fees and costs charged to you and you should obtain your own advice as to whether an input tax credit is available to you for such fees and charges as it will depend on your personal circumstances.

### **13. COOLING-OFF ARRANGEMENTS**

There are no cooling-off arrangements for financial products. This means that when we arrange for the execution of a Contract, you do not have the right to return the Product, nor request a refund of the money paid to acquire the Product. You are bound by the terms of a Contract, when you enter into it, despite the fact that settlement may occur at a later date.

### **14. SUPERANNUATION FUNDS**

Complying superannuation funds are subject to numerous guidelines and restrictions in relation to their investment activities. These are contained in the *Superannuation Industry Supervision Act 1993*, the regulations made under that Act, and circulars issued by past and present regulators of superannuation funds, namely the Australian Prudential Regulation Authority and the Australian Taxation Office.

Some of the issues that should be considered by a trustee of a complying superannuation fund before entering into our financial products include:

- A. prohibitions on borrowing and charging assets and whether dealing in financial products would breach those borrowing and charging prohibitions;
- B. the dealing in financial products in the context of a complying superannuation fund's investment strategy, together with the fiduciary duties and other obligations owed by trustees of those funds;
- C. the necessity for trustees of a complying superannuation fund to be familiar with the risk involved in dealing in financial products and the need to have in place adequate risk management procedures to manage the risks associated in dealing in those products; and
- D. the consequences, including adverse taxation consequences if a superannuation fund fails to meet the requirements for it to continue to have complying status.

## **15. DISCLOSURE OF ANY RELEVANT CONFLICTS OF INTEREST**

We do not have any relationships or associations which might influence us in providing you with our services. However, we may share fees and charges with associates or other third parties or receive remunerations from them with respect to your dealings with us.

We will always act as principal for our own benefit in respect of all transactions with you. This means that we, our associates or other persons connected with us may have an interest, relationship or arrangement that is material in relation to any Contract entered into with us, or advice provided by us.

We repeat that we a market maker. Accordingly, you will be trading financial products directly with us, and not on any regulated market. As a market maker, we set the prices that refer to, but may not always be the same as, those in the Underlying Market. We will always act as a principal, not as an agent, for our own benefit, in respect of all transactions with you.

## **16. CLIENTS MAY BE TREATED DIFFERENTLY**

We, in our absolute discretion may quote different prices, and charge fees, costs and other charges at different rates, to different clients.

## **17. MAKING A COMPLAINT**

We have an internal dispute resolution process in place to resolve any complaints or concerns you may have, quickly and fairly. Any complaints or concerns should be directed to the Complaints Officer (by telephone, facsimile or letter) at the address and telephone/fax numbers provided in this PDS. We will investigate your complaint and provide you with our decision and the reasons on which it is based, in writing. We will seek to resolve your complaint within 45 days.

If you are dissatisfied with the outcome, you have the right to lodge a complaint with the Australian Financial Complaints Authority (AFCA), an approved external dispute resolution scheme, of which we are a member, using the contact details below. You may also make a complaint via the ASIC free call Info line on 1300 300 630.

You can contact AFCA by any of the means listed below:

In writing to:AFCA



GPO Box 3  
Melbourne VIC 3001

Telephone: Free call 1800 931 678

Email: [info@afca.org.au](mailto:info@afca.org.au)

Website: [www.afca.org.au](http://www.afca.org.au)

## **18. OUR PRIVACY POLICY**

Depending on the type of service being sought, we may ask you to provide certain personal information, either in writing or verbally. As a financial service provider, we have an obligation under the AML/CTF Act to verify your identity and the source of any funds. This means that we will ask you to present identification documents such as a passport and drivers licence, and we will retain copies of this information. This information will be kept strictly confidential and is used for the primary purpose of providing our services to you.

Your privacy is important to us and we are committed to compliance with the Privacy Act 1988 (Cth) and the Australian Privacy Principles. We will not share your information with a third party unless you provide us with written permission to do so, or unless required to do so in accordance with the law.

You can obtain a copy of our Privacy Policy from our Website. You have the right to obtain a copy of any personal information that we hold about you and update or correct such information.

## **19. RECORDING OF TELEPHONE CALLS**

As a matter of common industry practice, we may electronically record your telephone discussions with us. When you open an Account with us, you give us consent to make such recordings, with or without an automatic tone warning device, and to use recordings or transcripts from such recordings for any purpose, including, but not limited to, their use as evidence by either you or us in any dispute.

## **20. GOVERNING LAW**

This PDS, the Client Agreement and all transactions with us will be governed and construed in accordance with the laws of New South Wales and the Commonwealth of Australia and be subject to the jurisdiction of the Courts of New South Wales.

## **21. INTERPRETATION AND GLOSSARY**

### **21.1 Interpretation**

- A. The defined terms used in this PDS are capitalised and set out in this Schedule.
- B. If there is any conflict between the terms of this PDS and any Applicable Law (to the extent that it cannot be excluded or modified by this PDS or the Client Agreement), the Applicable Law will prevail.
- C. In this PDS any reference to a person includes bodies corporate, unincorporated associations, partnerships and individuals.

- D. In this PDS, all references to times of the day are to the time in Sydney, New South Wales, Australia, unless otherwise specified.
- E. Headings and examples in this PDS are for references only and do not affect the construction of the PDS.
- F. In this PDS any reference to any enactment includes references to any statutory modification or re-enactment of such enactment or to any regulation or order made under such enactment (or under such a modification or re-enactment).

## 21.2 Glossary

In this PDS the following terms and expressions have, unless the context otherwise requires, the following meanings:

<b>Account</b>	means an account you have with us;
<b>AEST</b>	means Australian Eastern Standard Time;
<b>AFSL</b>	means the Australian Financial Services Licence held by FAIRMARKETS (AFSL No: 424122);
<b>Agreements</b>	means this PDS, the Client Agreement, the Application Form, the Financial Service Guide, and any information on our Website or Trading Platform, as amended, varied, or replaced from time to time, which together govern our relationship with you;
<b>AML/CTF Laws</b>	means the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth) and all regulations, rules and instruments made under that Act;
<b>Applicable Laws</b>	means all: <ul style="list-style-type: none"><li>a) applicable provisions of laws and regulations, including all relevant rules of government agencies, exchanges, trade and clearing associations and self-regulatory organisations, that apply to the parties, the Agreements and the transactions contemplated by the Agreements;</li><li>b) applicable Australian Law; and</li><li>c) applicable rules, regulations, customs and practices from time to time of any exchange, licensed financial market, clearing house, licensed clearing and settlement facility, or other organisation or market involved in the conclusion, execution or settlement of a transaction or Contract and any exercise by such exchange, clearing house or other organisation or market of any power or authority conferred on it;</li></ul>
<b>Application Form</b>	means the application form and account opening documentation, including documentation required to be returned for the purposes of complying with the AML/CTF Laws, completed by you and submitted to us whether electronically or in hard copy;
<b>ASIC</b>	means the Australian Securities and Investments Commission;

<b>Associate</b>	means: <ul style="list-style-type: none"> <li>a) a person who is an officer, employee, agent, representative or associate of a party;</li> <li>b) a Related Body Corporate of a party; and</li> </ul> a person who is an officer, employee, agent, representative or associate of a Related Body Corporate of a party.
<b>AUD or \$</b>	Australian dollars
<b>Australian Client</b>	means a client who is a resident within Australia (based on the address in their Application Form or as notified by the Client to us from time to time).
<b>Australian Client Money Rules</b>	means the provisions, as modified by ASIC from time to time, in Part 7.8 of the Corporations Act and the Corporations Regulations made under those provisions that specify the manner in which financial services licensees are to deal with Client Moneys and property, and any other laws and regulations listed in Section 6.1 of this PDS;
<b>Australian Law</b>	means all laws, procedures, standards and codes of practice that apply in relation to the parties, the Client Agreement and the transactions contemplated by the Client Agreement, including the Corporations Act, the <i>Australian Securities and Investment Commission Act 2001</i> (Cth), ASIC Regulatory Guides and the <i>Privacy Act 1998</i> (Cth);
<b>Authorised Person</b>	means you and/or any person authorised by you to give instructions to us under the Client Agreement.
<b>Base Currency</b>	means the currency selected by you under the Client Agreement and which, in the absence of a selection will be AUD;
<b>Bullion</b>	means gold, silver, palladium, or platinum;
<b>Business Day</b>	any day (other than a Saturday, Sunday or public holiday) on which banks are open for business in Sydney, New South Wales, Australia;
<b>Client Agreement</b>	means the client agreement, as amended, varied, or replaced from time to time;
<b>CFD</b>	means a contract for difference that we offer to our clients from time to time under this PDS and the terms of the Client Agreement;
<b>CGT</b>	means capital gain tax;
<b>Commission</b>	means the fee paid to us for initiating a Contract;
<b>Commodity</b>	means oil, gas or such other commodities as published through our Trading Platform and/or Product Schedule;

<b>Client Money</b>	means the moneys our clients have deposited with us and held by us under the Australian Client Money Rules;
<b>Contract</b>	means any contract, whether oral or written, including any derivative, option, future, contract for difference or other transaction relating to such financial products entered into by us with you. Contract is also referred to as Position in the Agreements;
<b>Contract Price</b>	means the price we offer you to trade in our Product from time to time and which is calculated by us according to the Client Agreement;
<b>Contract Quantity</b>	means in relation to a Contract, the number of Contract Units as the case may be, traded by you as stated in the Confirmation;
<b>Contract Unit</b>	means relevant unit for the type of Position you wish to trade with us in accordance with the terms of the Client Agreement;
<b>Contract Value</b>	means the total value of the Position as calculated by us in accordance with the terms of the Client Agreement;
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> of the Commonwealth of Australia and regulations made under it;
<b>Event of Default</b>	means an event described in clause 15.1 of the Client Agreement;
<b>Expiry Date</b>	means the day on which the Contract expires.
<b>Force Majeure Event</b>	has the meaning given to it in clause 26 of the Client Agreement;
<b>Foreign Client</b>	means a Client who is a resident outside Australia (based on the address in their Application Form or as notified by the client to us from time to time);
<b>FSG</b>	means our relevant Financial Services Guide, including any supplementary and replacement financial services guide;
<b>Futures Based CFDs</b>	means a CFD where the Underlying Instrument is a Commodity future or other future Product;
<b>Index</b>	means the market index on which a CFD is based;
<b>Initial Margin</b>	has the meaning referred to in Section 8.1 of this PDS.
<b>Insolvency Event</b>	means any of the following: <ul style="list-style-type: none"> <li>A) an order is made that a corporate client be wound up;</li> <li>B) an application is made to a court for an order: <ul style="list-style-type: none"> <li>i. that a corporate client be wound up;</li> <li>ii. appointing a liquidator or provisional liquidator for a corporate client;</li> </ul> </li> <li>C) a liquidator, provisional liquidator or controller is appointed to a corporate client;</li> </ul>

- D) a resolution is passed to appoint an administrator to a corporate client;
- E) you enter into a deed of company arrangement or propose a reorganization, moratorium or other administration involving all or any of your creditors;
- F) a corporate client is dissolved or wound up in any other way;
- G) you are or state that you are unable to pay your debts as and when they fall due;
- H) you are or state that you are insolvent;
- I) you seek or obtain protection from any of your creditors under any legislation;
- J) you become insolvent or commit an act of bankruptcy or your estate comes within the law dealing with bankrupts;
- K) a bankruptcy petition is presented in respect of you or, if a partnership, in respect of one or more of the partners, or if a company, a receiver, trustee, administrative receiver or similar officer is appointed;
- L) if execution is levied against your business or your property and is not removed, released, lifted, discharged or discontinued within 28 days;
- M) you seek a moratorium or propose any arrangement or compromise with your creditors;
- N) any other event having substantially the same legal effect as the events specified in paragraphs ((a) to (n) above;
- O) any security created by any mortgagee or charge becomes enforceable against you and the mortgagee or chargee takes steps to enforce the security or charge;
- P) any indebtedness of you or any of your Related Corporations becomes immediately due and payable, or capable of being declared so due and payable, prior to its stated maturity by reason of your default or the default of any of your subsidiaries, or you or any of your subsidiaries fail to discharge any indebtedness on its due date;
- Q) you fail fully to comply with any obligations under this Agreement or any Contract;
- R) any of the representations or warranties given by you are, or become, untrue;

we consider it necessary for our own protection or the protection of our Associates;

**Interbank Rate**

the mid interbank rate calculated by us with reference to the bid and offer prices for the Underlying Instrument most recently quoted by any one or more third party banks;

**Limit Order**

has the meaning described in Section 3.14.

**Margin**

means the amount that you must have in your Account to enter into or maintain a Contract with us in accordance with the Client Agreement;

**Margin Call**

means a call on you normally made via the Trading Platform, requesting you to top up the amount of money you have in your Account as Margin;

**Margin Call Level**

means a particular Margin Level at or below which the Trading Platform will trigger a Margin Call automatically. Please refer to Section 8.3 for further information;

<b>Margin Call Liquidation Level</b>	means the Margin Level at which FAIRMARKETS has the ability to close all or some of your existing Contracts;
<b>Margin Level</b>	means the percentage of Total Equity to Total Margin Requirements;
<b>Margin Percentage</b>	means the amount of money you are required to pay to us and deposit with us for entering into a trade and/or maintaining an open Position;
<b>Margin Requirement(s)</b>	means the amount of money you are required to pay to us and deposit with us for entering into a trade and/or maintaining an open Position;
<b>Market Order</b>	means an order placed to buy or sell a Contract at the current price on our Trading Platform or as advised to you;
<b>Material Error</b>	means errors, omissions or misquotes that may occur in relation to Products;
<b>Market Information Sheet</b>	means the list of available Products offered by us and the associated details, which is available at <a href="http://fair.markets">fair.markets</a> ;
<b>Maximum Trading Size</b>	means such maximum Contract Quantity or Contract Value as we may specify through our Trading Platform or Market Information Sheet from time to time for any type of Product.
<b>Minimum Trade Sizes</b>	such minimum contract quantity or contract value as we may specify on our Market Information Sheet from time to time for any type of Product;
<b>Order</b>	means an offer made by you under the Agreements;
<b>OTC</b>	means Over the Counter;
<b>PDS</b>	means this Product Disclosure Statement, including any supplementary and replacement Product Disclosure Statement;
<b>Position</b>	the long or short position you have taken with us. Position has the same meaning as Contract in this PDS;
<b>Products</b>	means any of the Margin FX Contracts and CFDs listed in the Market Information Sheet at any given time, offered by us;
<b>Related Body Corporate</b>	has the meaning given to it by the Corporations Act, with any necessary modifications for companies incorporated outside Australia;
<b>Rollover Benefit</b>	means a benefit you may receive on Futures Based CFDs held overnight and which is described in clause 13 of the Client Agreement;
<b>Rollover Charge</b>	means a charge you may have to pay where you have a Futures Based CFD held overnight and which is described in clause 13 of the Client Agreement;

<b>Spread</b>	means the difference in the bid and offer prices of a Product quoted from time to time by us and, where appropriate, expressed as a percentage of the relevant price;
<b>Stop Loss Order</b>	has the meaning referred to in Section 3.14;
<b>Stop Out Level</b>	means the Margin Level at which FAIRMARKETS has the ability to close all or some of your existing Contracts;
<b>Swap Benefit</b>	means a benefit you may receive on a Position held overnight in a Position (other than a Futures Based CFD) and which is described in the Client Agreement;
<b>Swap Charge</b>	means a charge you may have to pay on a Position held overnight in a Product (other than a Futures Based CFD) and which is described in the Client Agreement;
<b>Swap Rate</b>	means the rate determined by us from time to time having regard to, among things, market rates and financing rates;
<b>Total Equity</b>	means the aggregate of the current cash balance in your Account, taking into account all your realised profits and losses, Commissions, Swap Charges, Rollover Charges, Administration Charges and your unrealised profits and losses;
<b>Total Margin Requirements</b>	means the sum of your Margin Requirements for all of your open Positions;
<b>Trading Platform</b>	means the trading platform we make available to you by which you may trade with us online in our Products. This includes any electronic service provided by us, for example an internet trading service offering clients access to information and trading facilities, via an internet service, a WAP service and/or an electronic order routing system and relevant software provided by us to enable you to use an electronic trading service.
<b>Underlying Instrument</b>	means the instrument which we list as being available to underlie an Order or Contract. An Underlying Instrument could be currency, an index, Commodity, futures contract, Bullion, or other instrument or asset or factor the reference to which the value of a Product is determined.
<b>Underlying market</b>	means the underlying market in which the Underlying Instrument is traded.
<b>USD</b>	means the lawful currency of the United States of America;
<b>We/us/our</b>	means FairMarkets Trading Pty Ltd (ACN 159 166 739);
<b>Website</b>	means any page hosted by the web domain name <a href="http://fair.markets">fair.markets</a> and includes the client portal.

